

ADOPTION OF CHAPTER 15-15, HAWAII ADMINISTRATIVE RULES

DEPARTMENT OF PLANNING AND ECONOMIC DEVELOPMENT

Repeal of State of Hawaii Land Use Commission Rules of  
Practice and Procedure and District Regulations and  
Adoption of Chapter 15-15, Hawaii Administrative Rules

September 3, 1986

SUMMARY

1. State of Hawaii Land Use Commission Rules of Practice And Procedure and District Regulations is repealed.

2. Chapter 15-15, Hawaii Administrative Rules, entitled "Hawaii Land Use Commission Rules", is adopted.

DEPARTMENT OF PLANNING AND ECONOMIC DEVELOPMENT

State of Hawaii Land Use Commission Rules of Practice  
and Procedure, and District Regulations, REPEALED

[ OCT 27 1986 ]

HAWAII ADMINISTRATIVE RULES

TITLE 15

DEPARTMENT OF PLANNING AND ECONOMIC DEVELOPMENT

SUBTITLE 3 STATE LAND USE COMMISSION

CHAPTER 15

LAND USE COMMISSION RULES

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Historical Note: This chapter is based substantially upon rules of practice and procedure. [Eff. 4/21/62; am and ren. 8/4/69; am and ren. 1/5/75; am and ren. 12/21/75; am 3/27/77; R. ] and state land use district regulations [Eff. 8/23/64; am and ren. 8/4/69; am and ren. 1/5/75; am and ren. 12/21/75; R. ] of the land use commission.

#### Subchapter 1

##### General Provisions

§15-15-01 Purpose. This chapter governs the practice and procedure before the land use commission, and shall be construed to secure the just and efficient determination of every proceeding. This chapter shall

be liberally construed to preserve, protect, and encourage the development and preservation of lands in the State for those uses to which they are best suited in the interest of public health and welfare of the people of the State of Hawaii. [Eff OCT 27 1986 ]  
(Auth: HRS §205-1) (Imp: HRS §205-1)

§15-15-02 Repeal of existing rules. All rules of the land use commission which were in effect on April 3, 1986, are repealed. [Eff OCT 27 1986 ]  
(Auth: HRS §205-1) (Imp: None)

§15-15-03 Definitions. As used in this chapter: "Accessory building or use" means a subordinate building or use which is incidental to and customary with a permitted use of the land.

"Agency" means each state or county board, commission, department, or office authorized by law to make rules or to adjudicate contested cases, except those in legislative or judicial branches.

"Agency hearing" refers only to a hearing held by an agency immediately prior to a judicial review of a contested case as provided in section 91-15 HRS.

"Agricultural park" means any planned agricultural complex which combines and concentrates in a common location a number of agricultural activities for the purpose of realizing production and distribution economies.

"Building" means any structure having a roof, including, but not limited to attached carports and similar devices.

"Chief clerk" means the person who is responsible for receiving, recording, and preserving the records of all matters brought before the commission.

"Commission" means the land use commission of the State of Hawaii.

"Chairperson" means the chairperson of the commission.

"Commissioner" means a member of the commission.

"Contested case" means a proceeding in which legal rights, duties, or privileges of specific parties are required by law to be determined after an opportunity for agency hearing.

"District" means an area of land, including lands underwater, established as an urban, agricultural, conservation or rural district.



"Dwelling" means a building designed or used exclusively for single family residential occupancy, but not including house trailer, multi-family dwelling, mobile home, hotel or motel.

"Economic feasibility" means the degree to which the market demand for the proposed project by the petitioner is accurately estimated and appears to be substantial enough to indicate a probability of sufficiently profitable endeavor to justify the boundary amendment.

"Family" means an individual or two or more persons related by blood, marriage, or adoption a group comprising not more than five persons, not related by blood, marriage, or adoption.

"Farm dwelling" means a single-family dwelling located on and used in connection with a farm or where agricultural activity provides income to the family occupying the dwelling.

"Hearing officer" means a person or persons designated and authorized by the commission to conduct an agency hearing for the purpose of taking testimony and to report the findings of fact, conclusions of law and recommendation to the commission on matters within the jurisdiction of the commission.

"HRS" means the Hawaii Revised Statutes.

"Intervenor" means a person or agency who properly seeks by application to intervene and is entitled as of right to be admitted as a party in any court or agency proceeding.

"Land" shall include areas under water within the boundaries of the State.

"Lot" means a single parcel of land of record in the real property tax records of the State of Hawaii.

"Map" means the land use district boundaries maps of the land use commission.

"Meeting" means the convening of the commission for which a quorum is required in order to make a decision or deliberate toward a decision upon a matter over which the commission has supervision, control, jurisdiction, or advisory power.

"Party" means a person named or admitted as a party or properly seeking and entitled as of right to be admitted as a party in any court or agency proceeding.

"Person" means when appropriate to the context, not only individual, but a corporation, firm, association, partnership, society, and federal, state, and county department or agency.

"Petitioner" means a person who seeks permission or authorization which the commission may grant under statutory or other authority delegated to it; and a person seeking relief not otherwise designated in this chapter.

"Planning commission" means the planning commissions of the various counties, including the city and county of Honolulu.

"Presiding officer" means any commissioner or a hearing officer duly designated as such. Unless otherwise designated, the chairperson shall be the presiding officer.

"Proceeding" means any matter brought before the commission over which the commission has jurisdiction and shall include, but not be limited to:

- (1) Petitions for district boundary amendment;
- (2) Petitions for special use permit;
- (3) Proceedings for the adoption, amendment, or repeal of rules under sections 91-3 and 205-7, HRS;
- (4) Petitions for declaratory rulings under section 91-8, HRS;
- (5) An investigation or review instituted or requested to be initiated by the commission; and
- (6) All other matters in the administration of chapter 205, HRS;

"Public institution and building" means any institution or building being used by a federal, state or county agency for a public purpose.

"Respondent" means a person subject to any statute administered by the commission, or any order, rule, adopted thereunder, against whom an order or notice is issued by the commission instituting an agency hearing to show cause or investigation.

"Shoreline" means the upper reaches of the wash of the waves, other than storm or tidal waves, at high tide during the season of the year in which the highest wash of the wave occurs, usually evidenced by the edge of vegetation growth or the upper limit of debris left by the wash of the waves as stated in section 205A-1, HRS.

"Sign" means an identification, description, illustration, or device which is affixed to a building, structure, or land and directs attention to a product, place, activity, person, institution, or business.

"Single-family dwelling" means a dwelling occupied exclusively by one family.

"State" means the State of Hawaii.

"Structure" means a constructed or erected material or combination of materials, which requires location on the ground, including, but not limited to, buildings, radio towers, sheds, storage bins, fences, and signs.

"Unauthorized ex parte communication" means private communications or arguments with members of the commission or its hearing officer as to the merits of a proceeding with a view towards influencing the outcome of the petition or proceeding. [Eff ~~OCT 27 1986~~ ]  
(Auth: HRS §205-1) (Imp: HRS §91-2, §205-1)

§15-15-04 Grammatical usage. (a) Words used in the present tense include the future tense.

(b) The singular number includes the plural; and the plural, the singular.

(c) The word "shall" is always mandatory.

(d) The word "may" is always permissive.

(e) Terms not defined in this chapter shall have the meanings customarily assigned to them.

[Eff ~~OCT 27 1986~~ ] (Auth: HRS §205-1)  
(Imp: HRS §91-2, §205-1)

§15-15-05 Office and office hours. (a) The office of the commission is in Honolulu, Hawaii. All communications to the commission shall be addressed to room 104, 335 Merchant Street, Honolulu, Hawaii 96813, unless otherwise directed by the commission.

(b) The office of the commission shall be open from 7:45 a.m. to 4:30 p.m., Monday through Friday, unless otherwise provided by statute or executive order. [Eff ~~OCT 27 1986~~ ] (Auth: HRS §205-1)  
(Imp: HRS §91-2, §205-1)

§15-15-06. Chairperson and Vice-Chairperson. (a) the Commissioners shall annually elect a Chairperson and Vice-Chairperson from its members.

(b) The Chairperson and Vice-Chairperson shall have responsibilities and duties as prescribed in this chapter. [Eff OCT 27 1986 ] (Auth: HRS §205-1)  
(Imp: HRS §91-2, §205-1)

§15-15-07 Executive officer. (a) The executive officer shall be appointed by the commission to serve as the administrative head of the commission staff and have responsibilities and duties as prescribed by the commission.

(b) The executive officer shall prepare a hearing calendar and the agenda for all meetings, under the direction of the chairperson.

(c) The executive officer or such other person as may be authorized by the commission shall certify all decisions and orders and other actions of the commission.

(d) All requests for public information, copies of public records, or to inspect the public records of the commission, shall be directed to the executive officer either in writing or in person.

(e) The executive officer shall prepare for the commission the draft of an annual report of the commission's activities, accomplishments, and recommendations for submission to the governor and to the legislature through the governor.

(f) The executive officer may be appointed by the commission to serve as hearing officer.

(g) The executive officer may interpret land use district boundaries at the request of the public. Interpretation of district boundaries shall be done in compliance with section 15-15-22.

(h) The executive officer may employ, or require that the requesting party employ, at its sole expense, a registered land surveyor to prepare a map for interpretation. [Eff OCT 27 1986]

(Auth: HRS §91-2, §205-1) (Imp: HRS 205-1)

§15-15-08 Chief clerk. Under the supervision of the executive officer, the chief clerk shall have custody of the commission's official records and shall be responsible for the maintenance and custody of the docket files, including the transcripts and exhibits, the minutes of all of the commission's actions, and all of the commission's decisions, orders, opinions, rules, and approved forms. [Eff OCT 27 1986]

(Auth: HRS §205-1) (Imp: §91-2, §205-1)

§15-15-09 Public records. The term "public records" shall have the same meaning as is defined in chapter 92, HRS, and shall include maps, rules, written

statements of policy or interpretation formulated, adopted, or used by the commission in its functions, all decisions, orders, minutes or commission meetings, and records or any docket on file with the commission, but shall not include records which invade the right of privacy or an individual. [Eff OCT 27 1986 ]  
(Auth: HRS §205-1) (Imp: HRS §§92-21, 92-50, 92-51).

§15-15-10 Meetings; generally. (a) The commission may meet and exercise its powers in any part of the State of Hawaii. Except as provided in sections 92-4 and 92-5, HRS, all of the commission meetings are open to the public. The parliamentary procedure to be utilized by the commission in the conduct of its meetings shall be based on the current edition of Robert's Rules of Order Newly Revised, only if it does not conflict with chapter 91, HRS, or these rules.

(b) The commission shall allow all interested persons an opportunity to submit data, views, arguments or present oral testimony on any agenda item in an open meeting. The commission may provide for the recordation of all presented oral testimony.

(c) The commission shall comply with the provisions of section 92-7, HRS, by providing the required written public notice of any meeting.  
[Eff OCT 27 1986 ] (Auth: HRS §205-1)  
(Imp: HRS §§91-2, 92-3)

§15-15-11 Executive meetings. (a) The commission may hold an executive meeting from which the public may be excluded, for those purposes permitted by section 92-4, HRS, but only if there is an affirmative vote of two-thirds of the members present at the meeting; provided the affirmative vote constitutes a majority of the members to which the commission is entitled. The reason for holding the executive meeting shall be publicly announced and the vote of the members shall be recorded and entered into the minutes of the meeting.

(b) The commission shall not finally act upon any ruling, rule, contract, appointment, or decision in an executive meeting, except as provided in section 92-5(a)(1) to (6), HRS. [Eff OCT 27 1986 ]  
(Auth: HRS §205-1) (Imp: HRS §§92-4, 92-5)

§15-15-12 Emergency meetings. The commission may hold an emergency meeting that does not comply with the notice requirement of section 92-7, HRS, under conditions specified in section 92-8, HRS.  
[Eff ~~OCT 27 1986~~ ] (Auth: HRS §205-1)  
(Imp: HRS §§91-2, 92-8)

§15-15-13 Quorum and number of votes necessary for a decision. Unless otherwise provided by law, a majority of all the members to which the commission is entitled shall constitute a quorum to transact business, and the concurrence of a majority of all the members present shall be necessary to make a commission decision valid; provided all approvals of petitions for boundary amendments under section 205-4, HRS, shall require six affirmative votes and approvals for special use permits under section 205-3.1, HRS, shall require five affirmative votes.  
[Eff ~~OCT 27 1986~~ ] (Auth: HRS §205-1)  
(Imp: HRS §92-15)

§15-15-14 Removal of persons from meetings. The presiding officer may remove any person who willfully disrupts a meeting. [Eff ~~OCT 27 1986~~ ]  
(Auth: HRS §205-1) (Imp: HRS §92-3)

§15-15-15 Minutes of meetings. (a) The commission shall keep written minutes of all meetings. Unless otherwise required by law, neither a full transcript nor a recording of the meeting shall be required, but the written minutes shall give a true reflection of the matters discussed at the meeting and the views of the members. The minutes shall include, but need not be limited to:

- (1) The date, time, and place of the meeting;
- (2) The members of the commission recorded as either present or absent;
- (3) The substance of all matters proposed, discussed, or decided; and a record, by individual member, of any votes taken; and
- (4) Any other information that any member of the commission requests be included or reflected in the minutes.

(b) The minutes shall be public records and shall be available within thirty days after the meeting except where the disclosure would be inconsistent with section 92-5, HRS. The commission may withhold publication of the minutes of executive meetings so long as their publication would defeat the lawful purpose of the executive meeting, but no longer.  
 [Eff OCT 27 1986 ] (Auth: HRS §205-1)  
 (Imp: HRS §92-9)

§15-15-16 Computation of time. In computing any period of time under the rules as provided in this chapter, by notice, or by any order, or rule of the commission, the time begins with the day following the act, event, or default, and includes the last day of the period unless it is a Saturday, Sunday, or legal holiday in which event the period runs until the end of the next day which is not a Saturday, Sunday, or legal holiday. When the prescribed period of time is not more than ten days, Saturdays, Sundays or legal holidays within the designated period shall be excluded in the computation. [Eff OCT 27 1986 ]  
 (Auth: HRS §205-1) (Imp: HRS §91-2).

## Subchapter 2

### Establishment Of State Land Use Districts

§15-15-17 Districts and district maps. (a) In order to effectuate the purposes of chapter 205 and 205A, HRS, all the lands in the State shall be divided and placed into one of the four land use districts:

- (1) "U" urban district
- (2) "A" agricultural district
- (3) "C" conservation district
- (4) "R" rural district

(b) The boundaries of land use districts are shown on the maps listed in subchapter 16, and on file in the commission office. Not all ocean areas and off-shore and outlying islands of the State in the conservation district are shown when deemed unnecessary to do so. The maps designated as the "Land Use District Boundaries Maps" (9/3/86) located at the end of subchapter 16, are made a part of this section.  
 [Eff OCT 27 1986 ] (Auth: HRS §205-1) (Imp: HRS §91-2)

§15-15-18 Standards for determining "U" urban district boundaries. In determining the boundaries for the "U" urban district, the following standards shall be used:

- (1) It shall include lands characterized by "city-like" concentrations of people, structures, streets, urban level of services and other related land uses;
- (2) It shall take into consideration the following specific factors:
  - (A) Proximity to centers of trading and employment except where the development would generate new centers of trading and employment;
  - (B) Substantiation of economic feasibility by the petitioner;
  - (C) Proximity to basic services such as sewers, transportation systems, water, sanitation, schools, parks, and police and fire protection; and
  - (D) Sufficient reserve areas for urban growth in appropriate locations based on a ten year projection;
- (3) It shall include lands with satisfactory topography and drainage and reasonably free from the danger of floods, tsunami, unstable soil conditions, and other adverse environmental effects;
- (4) In determining urban growth for the next ten years, or in amending the boundary, land contiguous with existing urban areas shall be given more consideration than non-contiguous land, and particularly when indicated for future urban use on state or county general plans;
- (5) It shall include lands in appropriate locations for new urban concentrations and shall give consideration to areas of urban growth as shown on the state and county general plans;
- (6) It may include lands which do not conform to the standards in paragraphs (1) to (5):
  - (A) When surrounded by or adjacent to existing urban development; and
  - (B) Only when those lands represent a minor portion of this district;



- (7) It shall not include lands, the urbanization of which will contribute toward scattered spot urban development, necessitating unreasonable investment in public infrastructure or support services;
- (8) It may include lands with a general slope of twenty percent or more which do not provide open space amenities or scenic values if the commission finds that those lands are desirable and suitable for urban purposes and that official design and construction controls are adequate to protect the public health, welfare and safety, and the public's interests in the aesthetic quality of the landscape. [Eff OCT 27 1986 ]  
(Auth: HRS 205-1) (Imp: HRS §205-2)

§15-15-19 Standards for determining "A" agricultural district boundaries. In determining the boundaries for the "A" agricultural district, the following standards shall apply:

- (1) It shall include lands with a high capacity for agricultural production except as otherwise provided in this chapter;
- (2) It may include lands with significant potential for grazing or for other agricultural uses except as otherwise provided in this chapter;
- (3) It may include lands surrounded by or contiguous to agricultural lands and which are not suited to agricultural and ancillary activities by reason of topography, soils, and other related characteristics;
- (4) Lands in intensive agricultural use for two years prior to date of filing of a petition or lands with a high capacity for intensive agricultural use shall not be taken out of this district unless the commission finds either that the action:
  - (A) Will not substantially impair actual or potential agricultural production in the vicinity of the lands or in the county or state; or
  - (B) Is reasonably necessary for urban growth. [Eff OCT 27 1986 ]  
(Auth: HRS §205-1) (Imp: HRS §205-2)

§15-15-20 Standards for determining "C" conservation district boundaries. In determining the boundaries for the "C" conservation district, the following standards shall apply:

- (1) It shall include lands necessary for protecting watersheds, water resources, and water supplies except as otherwise provided in this chapter;
- (2) It may include lands susceptible to floods, and soil erosion, lands undergoing major erosion damage and requiring corrective attention by the state and federal government, and lands necessary for the protection of the health and welfare of the public by reason of the land's susceptibility to inundation by tsunami and flooding, to volcanic activity and landslides;
- (3) It may include lands used for national or state parks;
- (4) It shall include lands necessary for the conservation, preservation, and enhancement of scenic, cultural, historic or archaeologic sites and sites of unique physiographic or ecologic significance except as otherwise provided in this chapter;
- (5) It shall include lands necessary for providing and preserving parklands, wilderness and beach reserves, and for conserving natural ecosystems of endemic plants, fish, and wildlife, for forestry and other related activities to these uses except as otherwise provided in this chapter;
- (6) It shall include lands having an elevation below the shoreline as provided by Chapter 205A, HRS, and marine waters, fish ponds, and tidepools of the State unless otherwise designated on the district maps. All off-shore and outlying islands of the State are classified conservation unless otherwise indicated in this chapter;
- (7) It shall include lands with topography, soils, climate, or other related environmental factors that may not be normally adaptable or presently needed for urban, rural, or agricultural use, except when those lands constitute areas not contiguous to the conservation district;

- (8) It shall include lands with a general slope of twenty percent or more which provide for open space amenities or scenic values except as otherwise provided in this chapter;
- (9) It may include lands suitable for farming, flower gardening, operation of nurseries or orchards, growing of commercial timber, grazing, hunting, and recreational uses including facilities accessory to those uses when the facilities are compatible with the natural physical environment.  
[Eff OCT 27 1986 ] (Auth: HRS §205-1)  
(Imp: HRS §205-2).

§15-15-21 Standards for determining "R" rural district boundaries. In determining the boundaries for the "R" rural district, the following standards shall apply:

- (1) Areas consisting of small farms; provided that the areas need not be included in this district if their inclusion will alter the general characteristics of the areas;
- (2) Activities or uses as characterized by low-density residential lots of not less than one-half acre and a density of not more than one single-family dwelling per one-half acre in areas where "city-like" concentration of people, structures, streets, and urban level of services are absent, and where small farms are intermixed with the low-density residential lots;
- (3) Generally, parcels of land not more than five acres; provided it may include other parcels of land which are surrounded by, or contiguous to this district, and are not suited to low-density residential uses for small farm or agricultural uses.  
[Eff OCT 27 1986 ] (Auth: HRS §205-1)  
(Imp: HRS §205-2)

§15-15-22 Interpretation of district boundaries.  
(a) Except as otherwise provided in this chapter, a district name or letter appearing on the district map applies throughout the whole area bounded by the district boundary lines.

(b) The following shall apply whenever uncertainty exists with respect to the boundaries of the various districts:

- (1) Whenever a district line falls within or abuts a street, alley, canal, navigable or non-navigable stream or river, it may be deemed to be in the midpoint of the foregoing. If the actual location of the street, alley, canal, navigable or non-navigable stream or river varies slightly from the location as shown on the district map, then the actual location shall be controlling;
- (2) Whenever a district line is shown as being located within a specific distance from a street line or other fixed physical feature, or from an ownership line, this distance shall be controlling;
- (3) Unless otherwise indicated, the district lines shall be determined by the use of the scale contained on the map;
- (4) All water areas within the State are considered to be within a use district and controlled by the applicable district rules;
- (5) All requests for boundary interpretations shall be accompanied by four maps. Five maps shall be required if the interpretation involves conservation district lands. All requests for current boundary interpretations involving shoreline properties shall be accompanied by five copies of a map showing the locations of the shoreline as provided for in section 205A-42, HRS. Any erosion or accretion through natural processes which significantly affects the configuration of the property shall be reflected on the survey map. Further, any shoreline structure, piers, and areas of man-made fill which were constructed or completed since the date of adoption of the current state land use district boundaries shall be reflected on the survey map;
- (6) Whenever subsections (a) and (b) cannot resolve an uncertainty concerning the location of any district line, the commission, upon written application or upon its own motion, shall determine the location of those district lines. [Eff OCT 27 1996 ]  
(Auth: HRS §205-1) (Imp: §205-1)

Subchapter 3

Permissible Land Uses

§15-15-23 Permissible uses; generally. Except as otherwise provided in this chapter, the following land and building uses are compatible and permitted within the following land use districts, except when applicable county ordinances or regulations are more restrictive. Except as otherwise provided in this chapter, uses not expressly permitted are prohibited. [Eff OCT 27 1986 ] (Auth: HRS §205-1) (Imp: HRS §205-2)

§15-15-24 Permissible uses within the "U" urban district. Any and all uses permitted by the counties, either by ordinances or rules shall be allowed within this district, subject to any conditions imposed by the commission pursuant to section 205-4, HRS. [Eff OCT 27 1986 ] (Auth: HRS §205-1) (Imp: HRS §205-2)

§15-15-25 Permissible uses within the "A" agricultural district. (a) Permissible uses within agricultural district land classified by the land study bureau's detailed land classification as overall (master) productivity rating class A or B shall be those uses set forth in section 205-4.5, HRS.

(b) Permissible uses within the agricultural district land classified by the land study bureau's detailed land classification as overall (master) productivity rating class of C, D, E and U shall be those uses permitted in A and B lands as set forth in section 205-4.5, HRS, and also those uses set forth in section §205-2, HRS. [Eff OCT 27 1986 ] (Auth: HRS §205-1) (Imp: HRS §§205-2, 205-4.5)

§15-15-26 Permissible uses within the "C" conservation district. Uses of land within a conservation district shall be governed by the rules of the state department of land and natural resources, title 13, Administrative Rules, and chapter 183, HRS. [Eff OCT 27 1986 ] (Auth: HRS §205-1) (Imp: HRS §205-2)

§15-15-27 Permissible uses within the "R" rural district. (a) Permissible uses within the rural district shall include the following activities:

- (1) All uses permitted under section 15-15-25 relating to agricultural uses and those uses that are compatible within the agricultural district;
- (2) Low-density residential uses with a minimum lot size of one-half acre. The commission for good cause may allow one lot of less than one-half acre, but not less than 18,500 square feet, or an equivalent residential density, provided all other lots in the subdivision have the minimum lot size of one-half acre. A petition for variance may be processed under the special permit procedure pursuant to subchapter 12. This exception shall apply to lots of record existing prior to January 1, 1977, and of not more than two acres. There shall be no more than one single-family dwelling per one-half acre, except as may be provided for in this section. [Eff OCT 27 1986 ]  
(Auth: HRS §205-1) (Imp: HRS §205-2)

#### Subchapter 4

#### Non-conformance

§15-15-28 Statement of intent. This subchapter is intended to expedite the eventual elimination of existing uses or structures that are not in conformity with the provisions of subchapter 3 because their continued existence violates basic concepts of health, safety, and welfare as well as principles of good land use. However, in applying subchapter 3, no elimination of non-conforming uses or structures shall be effected so as to cause unreasonable interference with established property rights. [Eff OCT 27 1986 ]  
(Auth: HRS §205-1) (Imp: HRS §205-8)

§15-15-29 Non-conforming uses of structures and lands. (a) Any lawful use of lands or buildings existing on April 9, 1962, may be continued even though those uses do not conform to the provisions hereof.

(b) Except as otherwise provided, the following provisions shall apply to non-conforming uses or structures within any district:

- (1) It shall not be changed to another non-conforming use or structure;
- (2) It shall not be expanded or increased in intensity of use;
- (3) It shall not be reestablished after discontinuance and abandonment for a continuous period of one year.  
[Eff OCT 27 1986 ] (Auth: HRS §205-1)  
(Imp: HRS §205-8)

§15-15-30 Non-conforming areas and parcels. (a) A lot of record may be occupied by any use permitted by this chapter, including a single-family dwelling; provided this exception shall not apply to subdivisions that have not received proper approval by the counties.

(b) Any proposed subdivision of land which is not in conformity with this subchapter, but which has received approval by the county having jurisdiction on April 9, 1962, shall be permitted as a non-conforming area subject to the ordinances and rules of the county. All lots within the non-conforming area shall be considered non-conforming parcels.

(c) Any parcel of land in a rural district less than one-half acre, shall be deemed a non-conforming parcel. [Eff OCT 27 1986 ] (Auth: HRS 205-1)  
(Imp: HRS §205-8)

§15-15-31 Casual or illegal use of land. A casual, intermittent, temporary, or illegal use of lands or buildings shall not be sufficient to establish the existence of a non-conforming use. [Eff OCT 27 1986 ]  
(Auth:- HRS §205-1) (Imp: HRS §205-8)

§15-15-32 Existence of non-conforming use is a question of fact. Whether a non-conforming use exists shall be a question of fact and shall be decided by the county planning commission after public notice and hearing. [Eff OCT 27 1986 ] (Auth: HRS §205-1)  
(Imp: HRS §205-8)

§15-15-33 Illegal non-conforming uses. An illegal non-conforming use of lands or buildings shall not be validated by the adoption of this chapter. [Eff OCT 27 1986 ] (Auth: HRS 205-1) (Imp: HRS §205-8)

## Subchapter 5

### Proceedings Before The Commission

§15-15-34 Waiver or suspension of rules. The intent and purpose of Chapter 205, HRS is to establish judicial procedures which would ensure the effective application of established State land use policies through an adversary process in a hearing in which diverse interests will have an opportunity to compete in an open and orderly manner. Accordingly, the commission expects all persons and parties to comply with this subchapter and chapter 91, HRS, so that the commission will have a full and complete record upon which it can render its decision. For good cause shown the commission may waive or suspend any rule. No rule relating to jurisdictional matters shall be waived or suspended by the commission. [Eff OCT 27 1986 ] (Auth: HRS §205-1) (Imp: HRS 91-3)

§15-15-35 Appearance before the commission. (a) Any party to a proceeding before the commission may appear in the party's own behalf or by an authorized representative of a partnership, corporation, trust, or association. An officer or employee of a department or agency of the State or a political subdivision may represent that department or agency in any proceeding before the commission.

(b) A party may be represented by an attorney. The attorney who appears before the commission shall be a member in good standing of the bar of the Hawaii supreme court. A member of the bar of another jurisdiction may appear by motion or by association with a member in good standing of the Hawaii bar. All pleadings and documents shall be served on the member of the Hawaii bar.

(c) Any person who signs a pleading or brief, enters an appearance at a hearing, or transacts business with the commission, by such an act represents that the person is legally authorized to do so and



shall comply with the laws of this State and the several counties, and the rules of the commission. Further, the person shall maintain the respect due to the commission, and shall never deceive or knowingly present any false statements of fact or law to the commission. The commission at any time may require any person appearing before the commission in a representative capacity to prove the person's authority and qualification to act in that capacity.

(d) All former employees of the State, as that term is defined in section 84-3, HRS, shall comply with the provisions of chapter 84, HRS (ethics code), prior to making an appearance in a representative capacity before the commission. [Eff OCT 27 1986 ]  
(Auth: HRS §205-1) (Imp: HRS §91-2)

§15-15-36 Decisions and orders. (a) All decisions and orders for boundary amendment and special permit applications shall be signed by the chairperson or the commissioners who have heard and examined the evidence in the proceeding. Commission members who have not heard and examined all of the evidence may vote and sign only after the procedures set forth in section 91-11, HRS, have been complied with.

(b) Unless otherwise indicated in the order, the effective date of a decision and order shall be the date of service.

(c) Official copies of decisions and orders and other commission actions shall be effectuated under the signature of the chairperson, executive officer, or by such other person as may be authorized by the commission. [Eff OCT 27 1986 ]  
(Auth: HRS §205-1) (Imp: HRS §91-12)

§15-15-37 Filing documents: place and time. All pleadings, briefs, submittals, petitions, reports, maps, exceptions, memoranda, and other legal papers required to be filed with the commission in any proceeding shall be filed at the office of the commission before or on the time limit prescribed by statute, rules, or order of the commission. Unless otherwise ordered, the date on which the papers are received shall be regarded as the date of filing.  
[Eff OCT 27 1986 ] (Auth: HRS §205-1)  
(Imp: HRS §91-2)

§15-15-38 Format. (a) Pleadings shall be bound at the top and typewritten upon paper 8-1/2 x 11 inches in size. Tables, maps, charts, exhibits, or appendices may be larger and shall be folded to that size where practical. The impression shall be on one side of the paper only and shall be double-spaced, except that footnotes and quotations in excess of a few lines may be single-spaced. Briefs shall be typewritten upon paper 8-1/2 x 11 in size. Reproduction may be by any process, provided all copies are clear and permanently legible.

(b) Petitions, pleadings, briefs, and other documents shall show the title of the proceeding before the commission and the case docket number assigned by the chief clerk and shall show the name and address of the person or attorney.

(c) The original of each petition, complaint, answer, or amendment shall be signed in black ink by each party or the party's counsel. If the party is a corporation or association, the pleading may be signed by an officer thereof. Motions, notices, and briefs may be signed by an attorney. [Eff OCT 27 1986 ]  
(Auth: HRS §205-1) (Imp: HRS §91-2)

§15-15-39 Verification. (a) Petitions, amendments thereto, and other pleadings which initiate a proceeding, and amendments thereto shall be verified by at least one of the persons or officers of the party filing the same.

(b) If the party filing the pleading is a corporation or association, the pleading may be verified by an officer thereof.

(c) The attorney for a party may sign and verify a pleading if the party is absent, or for some cause unable to sign and verify the pleading. [Eff OCT 27 1986 ]  
(Auth: HRS §205-1) (Imp: HRS §91-2)

§15-15-40 Copies. Unless otherwise required by this subchapter or the commission, all parties shall file with the commission an original and fifteen copies of each pleading or amendment thereof. Additional copies shall be promptly provided if the chairperson or the executive officer so requests.  
[Eff OCT 27 1986 ] (Auth: HRS §205-1)  
(Imp: HRS §91-2)

§15-15-41 Defective filings. Petitions for boundary amendment shall be filed with and accepted by the cnier clerk. The mere fact of filing shall not waive any failure to comply with this subchapter, and the commission may require the amendment of the boundary amendment application, or entertain motions by the parties in connection therewith. If the petition is in fact defective, the date of filing shall be as of the date the defects are cured. [Eff OCT 27 1986 ]  
(Auth: HRS §205-1) (Imp: HRS §91-2)

§15-15-42 Extensions of time. (a) Whenever a party is required to file a pleading within the period prescribed or allowed by this subchapter, by notice given thereunder, or by an order, the chairperson, or in the absence of the chairperson or vice-chairperson, the executive officer may:

- (1) For good cause before the expiration of the prescribed period, with or without notice to the parties, extend the period;
- (2) Pursuant to a stipulation between all of the parties, extend the period; or
- (3) Permit the act to be done after the expiration of a specified period where the failure to act is clearly shown to be the result of excusable neglect.

(b) Any request for a continuance, except by stipulations, shall be by written motion, unless made during the course of a hearing. [Eff OCT 27 1986 ]  
(Auth: HRS §205-1) (Imp: HRS §91-2)

§15-15-43 Amended pleadings. All pleadings may be amended at any time prior to the hearing date. Amendments offered prior to the hearing date shall be served on all parties and filed with the commission. All parties shall have the opportunity to answer and be heard on amendments filed after the hearing commences, and the commission shall decide whether those amendments shall be allowed. [Eff OCT 27 1986 ]  
(Auth: HRS §205-1) (Imp: HRS §91-2)

§15-15-44 Retention of documents. The commission shall retain all documents filed with or presented to the commission in the files of the commission. However, the chairperson or executive officer may

permit the withdrawal of original documents upon submission of properly authenticated copies to replace the original documents. [Eff OCT 27 1986 ]  
(Auth: HRS §205-1) (Imp: HRS §91-2)

§15-15-45 Service of process. (a) The commission shall cause to be served all orders, notices, and other papers issued by it, together with any other papers that it is required by law to serve. All other papers shall be served by the parties filing them.

(b) All papers served by either the commission or any party shall be filed and served upon all parties or their counsel and shall contain a certification of service. Any counsel entering an appearance subsequent to the proceeding shall notify all other counsel then of record and all parties not represented by counsel of that fact.

(c) The final decision and order, and any other paper required to be served by the commission upon a party, shall be served upon the party, or the party's counsel of record or in the absence of counsel upon the party.

(d) Service of papers shall be made personally or, unless otherwise provided by law, by certified mail.

(e) Service upon parties, other than the commission, shall be regarded as complete when the paper is properly stamped and properly addressed to the parties involved at the last known address and mailed in accordance with section 15-15-45(d).

(f) Whenever a party has the right to do some act or take some proceedings within a prescribed period after the service of a notice or other paper upon the person, and the notice or paper is served by mail, two days shall be added to the prescribed period.

[Eff OCT 27 1986 ] (Auth: HRS §205-1)  
(Imp: HRS §91-2)

## Subchapter 6

### Application Requirements for Boundary Amendment Petitions

§15-15-46 Standing to initiate boundary amendments. The following persons may initiate a petition to the commission for district boundary amendment:

- (1) State departments or agencies;
- (2) County departments or agencies in which the property is situated; or
- (3) Any person with a property interest in the property sought to be reclassified.  
[Eff OCT 27 1986 ] (Auth: HRS §205-1)  
(Imp: HRS §§205-3.1, 205.4)

§15-15-47 Filing. Petitioner shall file one original and fifteen copies of a petition for boundary amendment with the commission. [Eff OCT 27 1986 ]  
(Auth: HRS §205-1) (Imp: HRS §91-2)

§15-15-48 Service of petition. The petitioner shall serve copies upon the county planning department and planning commission within which the subject land is situated, director of the department of planning and economic development, or a designated representative, and all persons with a property interest in the subject property recorded in the county's real property tax records at the time the petition is filed. [Eff OCT 27 1986 ]  
(Auth: HRS §§205-1, 205-4) (Imp: HRS §91-2)

§15-15-49 Fees. An application for an amendment to district boundary shall be accompanied by a certified check for \$200 payable to the State of Hawaii. The commission shall waive this fee on any petition submitted by a state or county department or agency. [Eff OCT 27 1986 ] (Auth: HRS §205-1)  
(Imp: HRS §91-2)

§15-15-50 Form and contents of petition. (a) The form of the petition for boundary amendment shall conform to the requirements of subchapter 5. All petitions shall:

- (1) State clearly and concisely the authorization or relief sought;
  - (2) Cite by appropriate reference the statutory provision or other authority under which commission authorization or relief is sought.
- (b) For petitions to reclassify properties from the conservation district to any other district, the petition shall be deemed complete when an environmental

impact statement or negative declaration is approved by the commission for the proposed reclassification request. Such accepted environmental impact statement or negative declaration shall be filed with and be part of the petition for boundary amendment.

(c) The following shall also be provided:

- (1) The exact legal name of each petitioner and the location of the principal place of business and if an applicant is a corporation, trust, or association, or other organized group, the State in which the petitioner was organized or incorporated;
- (2) The name, title, and address of the person to whom correspondence or communications in regard to the application are to be addressed;
- (3) Description of the subject property, acreage, and tax map key number, with maps, including the tax map, that identify the area under petition. If the subject property is a portion of one or more lots, or the petition proposes incremental development of the subject property or both increments of development, the petitioner shall include a description of the subject property or increments in metes and bounds prepared by a registered professional surveyor. The petitioner, with the approval of the executive officer, may file the map and description after the commission's action on the petition;
- (4) The reclassification sought and present use of property;
- (5) Petitioner's proprietary interest in the subject property. Petitioner shall attach as exhibits to the petition the following:
  - (A) A true copy of the deed, lease, option agreement, development agreement, or other document conveying to the petitioner a proprietary interest in the subject property; and
  - (B) If petitioner is not the owner in fee simple of the subject property, written authorization of the fee owner to file the petition;
- (6) Type of development proposed, such as single-family, multi-family, residential, planned

- development, resort, commercial, industrial, etc.;
- (7) Preliminary data such as projected number of lots, lot size, number of units, densities, selling price, intended market, development timetables, and projected costs;
  - (8) Petitioner's financial condition together with latest balance sheet or income statement. If the petitioner is a private individual, partnership or corporation, a clear description of the manner in which the petitioner proposes to finance the development, a statement of petitioner's current financial condition, including petitioner's latest balance sheet and income statement. A petitioner, which is a state or county department or agency, shall not be required to submit a statement of current financial condition;
  - (9) Description of the subject property and surrounding areas including, present use, soil classification, agricultural lands of importance to the State of Hawaii classification, flood and drainage conditions;
  - (10) An assessment of the effects of the development upon the environment, agriculture, recreational, cultural, historic, scenic, flora and fauna, or other resources of the area;
  - (11) Availability of public services and facilities such as schools, sewers, parks, water, sanitation, drainage, roads, police and fire protection, adequacy thereof, or whether public agencies providing the services or facilities would be unreasonably burdened by the proposed development;
  - (12) Location of proposed development in relation to adjacent districts and developments;
  - (13) Economic impacts of the proposed development including provision of employment opportunities and relationship to centers of trading and employment;
  - (14) If a residential development is proposed, a description of the manner in which the petitioner addresses the housing needs of low, low moderate and gap groups;

- (15) An assessment of need for the reclassification. The assessment shall include an analysis of demand for the development proposed, projections as to the rate at which the project will be sold or absorbed by the market, and an assessment of the relationship between the development proposed, other projects proposed for the area and alternative uses for the property to be reclassified;
- (16) An assessment of conformity of the reclassification to applicable goals, objectives, and policies of the Hawaii State Plan, chapter 226, HRS, and applicable priority guidelines and functional plan policies;
- (17) An assessment of the conformity of the reclassification to objectives and policies of the coastal zone management program, chapter 205A, HRS, as applicable;
- (18) An assessment of conformity of the reclassification to the applicable county general plans, development or community plans, zoning designations and policies, and proposed amendments required;
- (19) Petitioners submitting applications for reclassifying to urban shall also submit proof that development of the subject property in accordance with the demonstrated need therefore will be accomplished before five years after the date of final county zoning approval. In the event full urban development cannot substantially be completed within such period, the petitioner shall also submit a schedule for development of the total of such project in increments, each such increment to be completed within no more than a five-year period. [Eff OCT 27 1986 ]  
 (Auth: HRS §205-1) (Imp: HRS §91-2)

## Subchapter 7

### Agency Hearing and Post Hearing Procedures

§15-15-51 Notice of hearing for boundary amendment petitions. (a) Upon proper filing of a petition for boundary amendment, the commission, not less than



sixty and not more than one hundred eighty days, shall conduct a hearing in the county in which the subject property is situated.

(b) The notice of hearing shall be served on the director of the department of planning and economic development, the county planning department within which the subject property is situated, and persons with a property interest in the subject property that is recorded in the county's real property tax records at the time the petition is filed. In addition, notice of the hearing shall be mailed to all persons who have made a written request or are on the mailing list for this purpose at their last recorded address at least thirty days in advance of the hearing date.

(c) The notice of hearing for a boundary amendment shall also be published at least once in a newspaper of general circulation in the State and as well as in a county newspaper in which the subject property is situated not less than thirty days in advance of the hearing date. The notice of hearing shall also be filed with the lieutenant governor's office at least six calendar days before the hearing.

(d) The notice of hearing of a boundary amendment shall include:

- (1) The date, time, place and nature of hearing;
- (2) The legal authority under which the hearing is to be held;
- (3) The particular sections of the statutes and rules involved;
- (4) An explicit statement in plain language of the issues involved;
- (5) The fact that parties may retain counsel if they so desire;
- (6) Where the map of subject property or petition may be inspected;
- (7) The rights of interested persons under section 205-4(e), HRS.  
[Eff OCT 27 1996] (Auth: HRS §205-1)  
(Imp: HRS §205-4)

§15-15-52 Intervention in proceeding for boundary amendments. (a) The petitioner, the department of planning and economic development and the county planning department within which the subject land is situated shall appear in every case as parties, and make recommendations relative to the proposed boundary change;

(b) Persons who may intervene upon timely application includes;

- (1) All departments and agencies of the state and of the county in which the land is situated; and
- (2) All persons who have a property interest in the land, or who otherwise can demonstrate that they will be so directly and immediately affected by the proposed change that their interest in the proceeding is clearly distinguishable from that of the general public.

(c) All other persons may apply for leave to intervene, which shall be freely granted, provided the commission or its hearing officer may deny an application to intervene when, in the commission, or hearing officer's discretion it appears that:

- (1) The position of the applicant for intervention concerning the proposed change is substantially the same as the position of a party already admitted to the proceeding; and
- (2) The admission of additional parties will render the proceedings inefficient and unmanageable.

(d) In a boundary amendment proceeding, petitions to intervene and become a party shall be in conformity with subchapter 5 and filed with the commission. The petition for intervention with proof of service on all parties shall be filed with the commission within fifteen days after the notice of hearing is published in the newspaper. Except for good cause shown, late filing shall not be permitted.

(e) The petition shall make reference to the following:

- (1) Nature of petitioner's statutory or other right;
- (2) Nature and extent of the petitioner's interest, and if an abutting property owner, the tax map key description of the property;
- (3) Effect of any decision in the proceeding on petitioner's interest.

(f) If applicable, the petition shall also make reference to the following:

- (1) Other means available whereby petitioner's interest may be protected;
- (2) Extent petitioner's interest may be represented by existing parties;

- (3) Extent petitioner's interest in proceeding differs from that of the other parties;
- (4) Extent petitioner's participation can assist in development of a complete record;
- (5) Extent petitioner's participation will broaden the issue;
- (6) How the petitioner's intervention would serve the public interest;
- (g) Petitions for intervention shall be accompanied by a filing fee of \$50. The fee shall be waived for state and county agencies.
- (h) If any party opposes the petition for intervention, the party shall file a motion to oppose within seven days after being served.
- (i) All petitions to intervene shall be heard prior to rendering a decision.
- (j) A person whose petition to intervene has been denied may appeal the denial to the circuit court pursuant to section 91-14, HRS. [Eff OCT 27 1996 ]  
(Auth: HRS §205-1) (Imp: HRS §205-4)

§15-15-53 Intervention in other than district boundary amendment proceedings. (a) In any proceeding other than a district boundary amendment proceeding, petitions to intervene and become a party shall conform to subchapter 5 and be filed at least within fifteen days from the date of the publication of the hearing notice.

(b) Contents of the petition shall conform to sections 15-15-52(e) and 15-15-52(f). [Eff OCT 27 1996 ]  
(Auth: HRS §205-1) (Imp: HRS §205-1)

§15-15-54 Consolidation. The commission, upon its own initiative or upon motion, may consolidate for hearing or other purposes, or may contemporaneously consider, two or more proceedings which involve substantially the same parties or issues which are the same or closely related if the commission finds that consolidation or contemporaneous consideration will be conducive to the proper dispatch of its business and to the ends of justice and will not unduly delay the proceedings. [Eff OCT 27 1996 ]  
(Auth: HRS §205-1) (Imp: HRS §91-2)

§15-15-55 Statement of Position. Prior to sixty days after the filing of the petition, the state and county shall file with the commission a statement of position with a summary of reasons in support or opposition, or in the alternative, a request for additional data upon which is necessary for a statement of position to be filed. [Eff OCT 27 1986 ]  
(Auth: HRS §205-1) (Imp: HRS §91-2)

§15-15-56 Stipulation as to findings of facts, conclusions of law and conditions of reclassification. At the hearing, all parties may enter into appropriate stipulations as to findings of fact, conclusions of law, and conditions of reclassification concerning the proposed boundary change as follows:

- (1) A petitioner who desires to enter into a stipulation shall prepare a proposed stipulation as to any or all findings of fact, conclusions of law and conditions of reclassification concerning the proposed boundary change;
- (2) All parties shall sign the proposed stipulation as to any or all proposed findings of fact, conclusions of law, conditions of reclassification, and a proposed decision and order, if at all, and shall submit such stipulation to the commission ten days prior to the hearing date;
- (3) At the hearing, the commission shall approve or deny the proposed stipulation and proposed decision and order;
- (4) The commission may require the parties to submit additional evidence concerning the proposed stipulation and proposed decision and order;
- (5) The commission may approve the proposed decision and order by amending or adopting the proposed decision and order. The commission shall issue a decision and order pursuant to provisions of sections 15-15-36 and 15-15-74 and section 205-4(g), HRS.  
[Eff OCT 27 1986 ] (Auth: HRS §205-1)  
(Imp: HRS §205-4)

§15-15-57 Prehearing conference; exchange of exhibits. A presiding officer or his designated representative may hold a prehearing conference with the parties for the purpose of formulating or simplifying the issues, arranging for the exchange of proposed exhibits or proposed written testimony, setting of schedules, exchanging names of witnesses, limitation of number of witnesses, determining the extent of proposed finding, and such other matters as may expedite orderly conduct and disposition of the proceeding.

[Eff OCT 27 1986 ] (Auth: HRS §205-1)

(Imp: HRS §91-2)

§15-15-58 Procedure for witnesses. (a) The commission may subpoena witnesses as set forth in section 15-15-69.

(b) Together with other witnesses that the commission may desire to hear at the hearing, the commission shall also allow a representative of a citizen or community group to testify, who indicates a desire to express the views of those citizen or community group concerning the proposed boundary change. Anyone who desires to testify shall make written application to be a witness prior to the hearing and, if the person desires to express the views of a citizen or community group, shall submit written evidence to show that the person is a duly authorized representative of the citizen or community group.

[Eff OCT 27 1986 ] (Auth: HRS §205-4) (Imp: HRS §91-2)

§15-15-59 Conduct of hearing. The hearing shall be conducted in accordance with this subchapter.

[Eff OCT 27 1986 ] (Auth: HRS §205-1)

(Imp: HRS §91-2)

§15-15-60 Presiding officer. (a) In all hearings before the commission, the chairperson, or one of the commissioners, or a hearing officer duly appointed and designated shall preside at the hearing.

(b) The presiding officer shall control the schedule and course of the hearings, administer oaths, receive evidence, hold appropriate conferences before and during hearings, rule upon all objections or motions which do not involve a final determination of the proceedings, receive offers of proof, and fix the

time for the filing of briefs, dispose of any other matter that normally and properly arises in the course of a hearing, and take all other actions authorized by law that are deemed necessary to the orderly and just conduct of a hearing.

(c) The presiding officer may postpone or continue any hearing upon a motion of any party without a hearing. The commission may require the requesting party pay all costs for any and all continuances, including, but not limited to the cost of notices of subsequent hearings, mailing to all persons on the mailing list, airfare and ground transportation for staff members and the entire commission for the continued hearing date. [Eff OCT 27 1986 ]  
(Auth: HRS §§205-1 and 205-4.1) (Imp: HRS §91-2)

§15-15-61 Disqualification. No commissioner or hearing officer shall sit in any proceeding in which a personal pecuniary or business interest is involved, or one in which the commissioner or hearing officer is related within the first degree by blood or marriage to any party to the proceeding. Except that, if, after declaring any pecuniary interest or consanguinity to the parties, the parties do not oppose the commissioner or hearing officer sitting in a proceeding, the record shall note clearly the waiver by the parties.  
[Eff OCT 27 1986 ] (Auth: HRS §205-1)  
(Imp: HRS §91-2)

§15-15-62 Ex parte communications. (a) The following classes of ex parte communications are permitted:

- (1) Communications which relate solely to matters which a commission member or hearing officer is authorized by the commission to dispose of on ex parte basis, including communications regarding scheduling or other procedural matters regarding the course of the proceeding;
- (2) Requests for information with respect to the status of a proceeding;
- (3) Communications which all parties to the proceeding agree or which the commission has formally ruled may be made on an ex parte basis;

(4) Communications with representatives of any news media on matters intended to inform the general public.

(b) No person whether or not a party to a proceeding before the commission shall make an unauthorized ex parte communication either oral or written about the proceeding to any member of the commission or hearing officer who will be a participant in the decision-making process. [Eff OCT 27 1986 ]  
(Auth: HRS §205-1) (Imp: HRS §§91-2, 91-13)

§15-15-63 Evidence. (a) In contested cases, evidentiary requirements shall be controlled by this section.

(b) Any oral or documentary evidence may be received, but the commission shall as a matter of policy provide for the exclusion of irrelevant, immaterial, or unduly repetitious evidence and no sanction shall be imposed or rule or order be issued except upon consideration of the whole record or such portions thereof as may be cited by any party and as supported by and in accordance with the reliable, probative, and substantial evidence. The commission shall give effect to the rules of privilege recognized by law.

(c) The presiding officer shall rule on the admissibility of all evidence. The rulings may be reviewed by the commission in determining the matter on its merits. In extraordinary circumstances, where prompt decision by the commission is necessary to promote justice, the presiding officer may refer the matter to the commission for determination.

(d) When objections are made to the admission or exclusion of evidence, the objecting party shall briefly state the grounds relied upon. Formal exceptions to rulings are unnecessary and need not be taken.

(e) An offer of proof for the record shall consist of a statement of the substance of the evidence to which objection has been sustained.

(f) With the approval of the presiding officer, a witness may read into the record the witness' testimony on direct examination. Before any prepared testimony is read, unless excused by the presiding officer, the witness shall deliver copies of the prepared testimony to the presiding officer, the chief clerk, and all counsels or parties. Admissibility shall be subject to

the rules governing oral testimony. If the presiding officer deems that substantial saving in time will result, a copy of the prepared testimony may be received into evidence without reading, provided that the witness shall be subject to proper cross-examination on matters contained in the prepared testimony.

(g) Documentary evidence may be received in the form of copies or excerpts if the original is not readily available; provided that upon request parties shall be given an opportunity to compare the copy with the original.

(h) Exhibits shall be legible and may be prepared on paper not exceeding 8-1/2 x 11 inches in size or bound or folded to the respective approximate size, where practical. Where practicable, sheets of each exhibit shall be numbered and data and other figures shall be set forth in tabular form. When exhibits are offered in evidence, the party shall furnish the original and fifteen copies of the exhibits to the presiding officer with a copy to each party to the proceeding other than the commission, unless copies have been previously furnished or the presiding officer directs otherwise.

(i) A party may use maps or other demonstrative exhibits as evidence provided the parties submit the number of legible copies as may be required by the presiding officer. The commission shall not permit the introduction of or testimony from any visual aid not introduced as evidence.

(j) If any matter contained in the petition or in a document filed as a public record with the commission is offered in evidence, unless directed otherwise by the presiding officer, the document need not be produced as an exhibit, but may be received in evidence by reference, provided that the particular portions of the document are specifically identified and are otherwise competent, relevant, and material. If testimony in proceedings other than the one being heard is offered in evidence, a copy shall be presented as an exhibit, unless otherwise ordered by the presiding officer.

(k) The commission may take official notice of matters as may be judicially noticed by the courts of the State of Hawaii. Official notice may also be taken of generally recognized technical or scientific facts within the commission's specialized knowledge when parties are given notice either before or during the



hearing of the material so noticed and afforded the opportunity to contest the facts so noticed.

(1) At the hearing, the presiding officer may require the production of further evidence upon any issue. The presiding officer may authorize the filing of specific documentary evidence as a part of the record after the close of the hearing, subject to the rights of the parties to request reopening of the hearing within a specified time after the receipt of such evidence, or may keep the hearing open until such time as evidence is received by the commission. Upon agreement of the parties, the presiding officer may authorize the filing of specific documentary evidence as a part of the record within a fixed time after submission, reserving an exhibit number therefore, but the hearing shall remain open. The presiding officer is authorized to close the hearing when the exhibit is received, provided that there is no objection from any party, and no request to cross-examine by any party or a request to answer questions by a commissioner.

[Eff ~~OCT 27 1986~~ ] (Auth: HRS §205-1)  
(Imp: HRS §§91-2, 91-10)

§15-15-64 Order of procedure. In hearings on petitions and complaints, the parties shall be heard in such order as the presiding officer directs.

[Eff ~~OCT 27 1986~~ ] (Auth: HRS §205-1)  
(Imp: HRS §91-2)

§15-15-65 Limiting testimony. To avoid unnecessary cumulative evidence, the presiding officer may limit the number of witnesses or the time for testimony upon a particular issue.

[Eff ~~OCT 27 1986~~ ] (Auth: HRS §205-1)  
(Imp: HRS §91-2)

§15-15-66 Removal from proceeding. Any person who willfully disrupts a hearing shall be removed from the hearing room. [Eff ~~OCT 27 1986~~ ] (Auth: HRS §205-1)  
(Imp: HRS §§91-2, 92-3)

§15-15-67 Co-counsel. Where a party is represented by more than one counsel, only one of the counsel shall be permitted to cross-examine a witness or to state any objections or to make closing arguments. [Eff OCT 27 1986 ] (Auth: HRS §205-1)  
(Imp: HRS §91-2)

§15-15-68 Cross-examination. Each party shall have the right to conduct any cross-examination of the witnesses as may be required for a full and true disclosure of the facts. Parties may submit rebuttal evidence subject to the approval of the presiding officer. [Eff OCT 27 1986 ] (Auth: HRS §205-1)  
(Imp: HRS §91-10)

§15-15-69 Requests for subpoenas. (a) Any party, chairperson, or commissioner may file a written request for the issuance of a subpoena requiring the attendance of a witness for the purpose of taking oral testimony before the commission, and the party shall submit in the subpoena a statement of the reasons why the testimony of the witness is believed to be material and relevant to the issues involved.

(b) Requests for the issuance of subpoenas duces tecum shall:

- (1) Be in writing;
- (2) Specify the particular document or record, or part thereof, desired to be produced;
- (3) State the reasons why the production thereof is believed to be material and relevant to the issues involved.

(c) The presiding officer, chairperson or in the chairperson's absence, any commissioner may issue subpoenas. Subpoenas shall not be issued unless the party requesting the subpoena has complied with this section. Signed and sealed blank subpoenas shall not be issued to any person. The name and address of the witness shall be inserted in the original subpoena, a copy of which shall be filed in the proceeding. Subpoenas shall show at whose instance the subpoena is issued.

(d) A party requesting the subpoenas shall pay the witnesses summoned the same fees and mileage as are paid witnesses in circuit courts of the State of Hawaii and the fees and mileage shall be paid by the party at whose instance the witness appears.

(e) The presiding officer shall place witnesses under oath ~~or~~ affirmation prior to testifying.  
[Eff ~~OCT 27 1986~~ ] (Auth: HRS §205-1)  
(Imp: HRS §§91-2, 92-16)

§15-15-70 Motions. (a) Any party may make motions before, during, or after a hearing.

(b) All motions other than those made during a hearing shall be made in writing to the commission or hearing officer, and shall state the relief sought and shall be accompanied by an affidavit or legal memorandum setting forth the grounds upon which they are based.

(c) The moving party shall serve a copy of all motion papers on all other parties and shall file the original plus fifteen copies with the commission and proof of service.

(d) The opposing party or parties shall serve a memorandum in opposition or counter affidavit on all parties and the original plus fifteen copies and proof of service shall be filed with the commission before seven days after being served with any written motion. The chairperson may order the opposing party or parties to file its memorandum in opposition earlier than the seven day period.

(e) Failure to serve or file a memorandum in opposition to a motion or failure to appear at the hearing may be deemed a waiver of objection to the granting or denial of the motion. A party who does not oppose the motion shall notify the executive officer and opposing counsel or party promptly.

[Eff ~~OCT 27 1986~~ ] (Auth: HRS §205-1) (Imp: HRS §91-2)

§15-15-71 Substitution of parties. Upon motion and for good cause shown, the commission may order substitution of parties, except that in the case of death of a party, substitution may be ordered without the filing of a motion. [Eff ~~OCT 27 1986~~ ]  
(Auth: HRS §205-1) (Imp: HRS §91-2)

§15-15-72 Correction of transcript. The chairperson or hearing officer shall determine any motion at the hearing to correct the transcript. Any motions after the hearing to correct the transcript

shall be filed with the commission within seven days after receipt of the transcript unless otherwise directed, and shall be served on all parties. Such motions shall certify the date when the transcript was received. If no objections are received before ten days after the date of service, the transcript, upon approval of the commission, shall be changed to reflect the corrections. [Eff OCT 27 1986 ]  
(Auth: HRS §205-1) (Imp: HRS §91-2)

§15-15-73 Post hearing procedures. Post hearing procedures shall conform to subchapters 9 and 10.  
[Eff OCT 27 1986 ] (Auth: HRS §205-1)  
(Imp: HRS §91-2)

§15-15-74 Decision. Prior to a period of not more than one hundred twenty days after the close of the hearing, unless otherwise ordered by the court, the commission, by filing findings of fact and conclusions of law, shall act to approve the petition, deny the petition, or to modify the petition by imposing conditions in accordance with subchapter 11.  
[Eff OCT 27 1986 ] (Auth: HRS §205-1)  
(Imp: HRS §205-4)

§15-15-75 Appeals. Parties to proceedings to amend land use district boundaries may obtain judicial reviews thereof in the manner set forth in section 91-14, HRS. [Eff OCT 27 1986 ] (Auth: HRS §205-1)  
(Imp: HRS §91-14)

§15-15-76 Re-application by petitioner. The commission shall not consider any petition for boundary amendment or special use permit covering substantially the same request for substantially the same land as had previously been denied by the commission within one year of the date of filing findings of fact and conclusions of law denying the petition unless the petitioner submits significant new data or additional reasons which substantially strengthen the petitioner's position, provided that in no event shall any new petition be accepted within six months of the date of the filing the findings of fact and conclusions of law. Additionally, the commission shall not consider any

petition for boundary amendment or special use permit for the same request involving the same land that was before commission and withdrawn voluntarily by the petitioner within one year of the date of the withdrawal. [Eff OCT 27 1988] (Auth: HRS §205-1) (Imp: HRS §91-2)

## Subchapter 8

### Decision-making Criteria for Boundary Amendment

§15-15-77 Decision-making criteria for boundary amendment. (a) The commission shall not approve an amendment of a land use district boundary unless the commission finds upon the clear preponderance of the evidence that the proposed boundary amendment is reasonable, not violative of section 205-2, HRS, and consistent with the policies and criteria established pursuant to Sections 205-16, 205-17 and 205A-2, HRS.

(b) In its review of any petition for reclassification of district boundaries pursuant to this chapter, the commission shall specifically consider the following:

- (1) The extent to which the proposed reclassification conforms to the applicable goals, objectives, and policies of the Hawaii State Plan and relates to the applicable priority guidelines of the Hawaii State Plan and the adopted functional plans;
- (2) The extent to which the proposed reclassification conforms to the applicable district standards;
- (3) The impact of the proposed reclassification on the following areas of state concern:
  - (A) Preservation or maintenance of important natural systems or habitats;
  - (B) Maintenance of valued cultural, historical, or natural resources;
  - (C) Maintenance of other natural resources relevant to Hawaii's economy including, but not limited to agricultural resources;
  - (D) Commitment of state funds and resources;
  - (E) Provision for employment opportunities and economic development; and

- (F) Provision for housing opportunities for all income groups, particularly the low, low-moderate and gap groups; and
- (4) In establishing the boundaries of the districts in each county, the commission shall give consideration to the general plan of the county in which the land is located.
- (c) Amendments of a land use district boundary in conservation districts involving land areas fifteen acres or less shall be determined by the commission pursuant to this subsection and section 205-3.1, HRS.
- (d) Amendments of land use district boundary in other than conservation districts involving land areas fifteen acres or less shall be determined by the appropriate county land use decision-making authority for the district.
- (e) Amendments of a land use district boundary involving land areas greater than fifteen acres shall be determined by the commission, pursuant to this subsection. [Eff OCT 27 1986] (Auth: HRS §205-1) (Imp: HRS §§205-3.1, 205-4, 205-17)

§15-15-78 Incremental districting. (a) If it appears to the commission that full development of the subject property cannot substantially be completed within five years after the date of the final county zoning approval and that the incremental development plan submitted by the petitioner can be substantially completed, and if the commission is satisfied that all other pertinent criteria for redistricting the premises or part thereof to urban are present, then the commission may:

- (1) Grant the petitioner's request to reclassify the entire property to urban; or
- (2) Redistrict to urban only that portion of the premises which the petitioner plans to develop first and upon which it appears that total development can substantially be completed within five years after the date of the final county zoning. At the same time, the commission shall indicate its approval of the future redistricting to urban of the total premises requested by the petitioner, or so much thereof as shall be justified as appropriate therefore by the petitioner, such approval to indicate a schedule of incremental redistricting to urban over

successive periods not to exceed five years each. The commission may reclassify the subject property to urban, if it finds such a change is justified.

(b) In reclassifying property on an incremental basis, in addition to standards in this subchapter, the commission may consider projected population growth for the area, other lands reclassified in the area and the desirability of directing growth and development to the area over a long term basis.

(c) Upon receipt of an application for redistricting to urban of the second and subsequent increments of premises for which previous approval for incremental development has been granted by the commission, substantial completion of any offsite and onsite improvements of the urban development, in accordance with the approved incremental plan, of the preceding increment redistricted to urban will be prima facie proof that the approved incremental plan complies with the requirements for boundary amendment.

(d) The following are procedures for processing incremental districting requests:

- (1) Petitioner shall file original and fifteen copies of a motion to approve the second or both subsequent increments utilizing the same docket number as the original petition;
- (2) Petitioner shall serve copies of the motion on all parties of record in the original proceeding;
- (3) The motion shall include facts, affidavits, and other documentation in support of the fact that petitioner has substantially completed offsite and onsite improvements and other applicable conditions in accordance with the approved incremental plan of the preceding increment redistricted to urban;
- (4) A prehearing conference may be conducted to determine the position of the parties and to exchange exhibits and witness lists;
- (5) A notice of hearing shall be published notifying the public of the time and place the motion will be considered by the commission and will provide for the admission of public witnesses; and

- (6) The procedures for hearing the motion will not be subject to the time frames presently existing for district boundary changes unless otherwise ordered by the commission.  
[Eff OCT 27 1986 ] (Auth: HRS §205-1)  
(Imp: §205-4)

§15-15-79 Performance time. Petitioners granted district boundary amendments shall make substantial progress within a reasonable period, as specified by the commission, from the date of approval or the boundary change, in developing the redistricted area. The commission may act to amend, nullify, change or reverse its decision and order if the petitioner fails to perform as represented to the commission within the specified period. [Eff OCT 27 1986 ]  
(Auth: HRS §205-1) (Imp: HRS §205-4)

#### Subchapter 9

#### Post Hearing Procedures For Hearings Before The Commission

§15-15-80 Briefs. The presiding officer may fix the time for the filing of briefs. Exhibits may be reproduced in an appendix to a brief. A brief or more than twenty pages shall contain a subject index and table of authorities. Requests for extension of time to file briefs must be made to the commission in writing, and a copy served upon or mailed to the parties to the proceeding. Ordinarily, when a matter is to be submitted on concurrent briefs, extensions shall not be granted unless a stipulation is filed with the commission. [Eff OCT 27 1986 ]  
(Auth: - HRS §205-1) (Imp: HRS §91-2)

§15-15-81 Oral argument. The commission or the presiding officer may direct or permit the presentation of oral argument with petitioner opening and concluding the argument. Not more than fifteen minutes on each side of the proceeding shall be allowed for argument without special leave of the commission.  
[Eff OCT 27 1986 ] (Auth: HRS §205-1)  
(Imp: HRS §§91-2, 91-12)



§15-15-82 Issuance of decisions and orders. A proceeding shall stand submitted for decision by the commission after the taking of evidence, and the filing of briefs or the presentation of oral argument as may have been prescribed by the presiding officer or hearing officer. The petitioner to the proceeding shall submit a proposed decision and order which shall include proposed findings of fact. Those proposals shall be mailed to each party to the proceeding and an opportunity given to each party to comment thereon. Every decision and order adverse to a party to the proceeding, rendered by the commission in a contested case, shall be accompanied by separate findings of fact and conclusions of law. If any party to the proceeding has filed proposed findings of fact, the commission shall incorporate in its decision a ruling upon each proposed finding so presented. [Eff OCT 27 1986 ]  
(Auth: HRS §205-1) (Imp: HRS §§91-2, 91-12)

§15-15-83 Service of decisions and orders. The chief clerk shall serve the decisions and orders by mailing certified copies to the parties of record. The effective date of the decision and order is the date certified by the executive officer. When service is not accomplished by mail, it may be effected by personal delivery of a certified copy. When a party to a proceeding has appeared by a representative, service upon the representative or counsel shall be deemed to be service upon the party. [Eff OCT 27 1986 ]  
(Auth: HRS §205-1) (Imp: HRS §§91-2, 91-12)

§15-15-84 The commission's reconsideration of petitions. The commission shall not on its own motion reconsider its action on any petition after 4:30 p.m. of the first workday following the date of the action, with the exception of section 15-15-93. In any event, the commission shall not on its own motion reconsider its action on any petition after the period within which the commission is required to act on the petition under section 205-4, HRS. [Eff OCT 27 1986 ]  
(Auth: HRS §205-1) (Imp: HRS §91-2)

Subchapter 10

Post Hearing Procedures For Hearing  
Conducted By Hearing Officer

§15-15-85 Recommendation of hearing officer. (a) Upon completion of taking of the evidence, the hearing officer shall prepare a report setting forth proposed findings of fact, conclusions of law, the reasons therefore, and a recommended order, and shall submit the report of the proceeding to the commission.

(b) The record shall include the petition, notice of hearing, motions, rulings, orders, transcript of the hearing, stipulations, documentary evidence, proposed findings, or other documents submitted by the parties, objections to the conduct of the hearing and the report of the hearing officer and all other matters placed in evidence.

(c) The hearing officer shall cause a copy of the report to be served upon all parties to the proceedings. [Eff OCT 27 1986] (Auth: HRS §205-1)  
(Imp: HRS §§91-2, 92-16)

§15-15-86 Exception to hearing officer's report and recommendations. (a) Prior to ten working days after service of the report and recommendations by the hearing officer, a party may file with the commission, exceptions to the report and a brief in support of such exceptions with the commission. Such party shall serve copies of exceptions and briefs upon each party to the proceeding.

(b) The exceptions shall:

- (1) Set forth specifically the questions of procedure, fact, law, or policy, to which exceptions are taken;
- (2) Identify that part of the hearing officer's report and recommended order to which objections are made;
- (3) Designate by page citation to the portions of the record relied upon;
- (4) State all the grounds for exceptions to a ruling, finding, conclusion or recommendation. The grounds not cited or specifically urged are waived.

[Eff OCT 27 1986] (Auth: HRS §205-1)

(Imp: HRS §91-2)

§15-15-87 Support of hearing officer's report and recommendations. (a) Prior to ten working days after service of the exceptions taken to the hearing officer's report, any other party may file with the commission a brief in support of the hearing officer's recommendations. Such party shall serve copies of the brief in support upon each party to the proceeding.

(b) The support brief shall:

- (1) Answer specifically the points of procedure, fact, law or policy to which exceptions were taken;
- (2) State the facts and reasons why the report and recommendation must be affirmed;
- (3) Designate by page citation the portions of the record relied upon. [Eff OCT 27 1986 ]  
(Auth: HRS §205-1) (Imp: HRS 91-2)

§15-15-88 Oral argument before the commission.

(a) If a party desires to argue orally before the commission, a written request with reasons therefore shall accompany the exceptions or the support briefs filed. The commission may grant the request.

(b) The commission may direct oral argument on its own motion. [Eff OCT 27 1986 ]  
(Auth: HRS §205-1) (Imp: HRS §91-10)

§15-15-89 Commission action. (a) In the event no statement of exceptions is filed, the commission may proceed to reverse, modify, or adopt the recommendations of the hearing officer.

(b) Upon the filing of the exceptions and briefs together with the briefs in support, the commission may:

- (1) Render its decision upon the record;
- (2) If oral argument has been allowed, the commission may render its decision after oral argument; or
- (3) Reopen the docket and take further evidence or may take such other disposition of the case that is necessary under the circumstances. [Eff OCT 27 1986 ]  
(Auth: HRS §205-1) (Imp: HRS §§91-2, 92-16)

Subchapter 11

Conditions: Filing, Enforcement, Modification,  
Deletion

§15-15-90 Imposition of conditions; generally.

(a) In approving a petition for boundary change, the commission may impose conditions necessary to uphold the general intent and spirit of chapters 205, 205A and 226, HRS, and to assure substantial compliance with representations made by the petitioner in seeking the boundary amendment.

(b) The commission may require the petitioner to dedicate land, in amounts specified by the commission, for park and school sites; public rights of way; transportation facilities and services, easements for beach and mountain access; and easements for public or private service and utility systems. Land dedications required by the commission shall be also subject to applicable county ordinances. The commission may request the petitioner or appropriate county agency to report periodically to the commission on the applicant's compliance with the dedication requirements imposed by the commission.

(c) The commission may require the petitioner to dedicate land to the Hawaii housing authority, or applicable county authority, in an amount specified by the commission, for use by the authority in the construction of housing.

(d) The commission may require petitioners to submit periodic reports indicating what progress has been made in complying with any conditions that may have been imposed by the commission under this subchapter.

(e) The commission may require petitioners to notify the commission of any intent to sell, lease, assign, place in trust, or otherwise voluntarily alter the ownership interests in the property covered by the approved petition. [Eff OCT 27 1986 ]

(Auth: HRS §205-1) (Imp: HRS §205-4)

§15-15-91 Applicability. Conditions, if any, imposed by the commission shall run with the land and shall be binding upon the petitioner and each and every subsequent owner, lessee, sub-lessee, transferee, grantee, assignee, or developer. [Eff OCT 27 1986 ]

(Auth: HRS §205-1) (Imp: HRS §205-4)

§15-15-92 Filing procedure for conditions imposed by the commission. All conditions imposed by the commission in its decision and order and required to be recorded at the bureau of conveyances shall comply with the following procedures:

- (1) The document listing the conditions shall be submitted to the commission for its approval prior to filing with the bureau of conveyances;
- (2) The owner of the property shall record the conditions at the bureau of conveyances before sixty days after the receipt of the decision and order requiring the same;
- (3) Evidence of recordation shall be by certified copy under the signature of the registrar of conveyances. The owner of the property shall forward a certified copy to the commission;
- (4) Description of the land shall be sufficiently accurate to identify the land intended to be affected. [Eff OCT 27 1986 ]  
(Auth: HRS §205-1) (Imp: HRS §91-2)

§15-15-93 Enforcement of conditions. (a) Whenever the commission shall have reason to believe that there has been a failure to perform according to the conditions imposed, the commission shall issue and serve upon the party bound by the conditions an order to show cause why the property should not revert to its former land use classification or be changed to a more appropriate classification.

- (1) The commission shall serve the order to show cause in writing by registered or certified mail with return receipt requested at least thirty days before the hearing. A copy shall be also sent to all parties in the boundary amendment proceedings;
- (2) The order to show cause shall include:
  - (A) A statement of the date, time, place, and nature of the hearing;
  - (B) A description and a map of the property to be affected;
  - (C) A statement of the legal authority under which the hearing is to be held;
  - (D) The specific sections of the statutes, or rules, or both, involved; and

(E) A statement that any party may retain counsel if the party so desires.

(b) The commission shall conduct a hearing on an order to show cause in accordance with the requirements of subchapter 7. Any procedure in an order to show cause hearing may be modified or waived by stipulation of the parties and informal disposition may be made in any case by stipulation, agreed settlement, consent order, or default.

(c) Post hearing procedures shall conform to subchapter 7 or subchapter 9. Decisions and orders shall be issued in accordance with subchapter 7 or subchapter 9.

(d) The commission shall amend its decision and order to incorporate the order to show cause by including the reversion of the property to its former land use classification or to a more appropriate classification. [Eff OCT 27 1986 ]

(Auth: HRS §205-1) (Imp: HRS §91-2)

§15-15-94 Modification or deletion of conditions.

(a) If a petitioner, pursuant to this subsection desires to have a modification or deletion of a condition that was imposed by the commission, the petitioner shall file a motion in accordance with section 15-15-70 and serve a copy to all parties to the boundary amendment proceeding in which the condition was imposed.

(b) For good cause shown, the commission may act to modify or delete any of the conditions imposed.

(c) Any modification or deletion of conditions shall follow the procedures set forth in subchapter 11. [Eff OCT 27 1986 ]

(Auth: HRS §205-1)

(Imp: HRS §205-4)

Subchapter 12

Special Permits

§15-15-95 Petition before county planning commission. (a) Any person who desires to use his land within an agricultural or rural district for other than a permissible agricultural or rural use may petition the county planning commission within which his land is located for a special use permit to use his land in the manner desired. Special permits for areas greater than

fifteen acres require approval of both the county planning commission and the commission. Special permits approved by the county planning commission and which require commission approval must be forwarded to the commission within sixty days following the county planning commission's decision. The decision, together with the complete record, including maps, charts, and other exhibits as evidence, of the proceeding before the county planning commission must be transmitted to the commission.

(b) Certain "unusual and reasonable" uses within agricultural and rural districts other than those for which the district is classified may be permitted. The following guidelines are established in determining an "unusual and reasonable use":

- (1) The use shall not be contrary to the objectives sought to be accomplished by chapters 205 and 205A, HRS, and the rules of the commission;
- (2) The desired use would not adversely affect surrounding property;
- (3) The use would not unreasonably burden public agencies to provide roads and streets, sewers, water drainage and school improvements, and police and fire protection;
- (4) Unusual conditions, trends and needs have arisen since the district boundaries and rules were established;
- (5) The land upon which the proposed use is sought is unsuited for the uses permitted within the district.

(c) Petitions for issuance of a special use permit shall specify the use desired and state concisely the nature of the petitioner's interest in the subject matter and the reasons for seeking the special use permit, and shall include any facts, views, arguments, maps, plans, and relevant data.

(d) The petitioner shall comply with all of the rules of practice and procedure of the county planning commission in which the subject property is located.

(e) The county planning commission may impose such protective conditions as it deems necessary in the issuance of a special use permit. The county planning commission shall establish, among other conditions, a reasonable time limit suited to establishing the particular use, which shall be a condition of the special use permit. If the permitted use is not substantially established to the satisfaction of the

county planning commission within the specified time, it may revoke the permit. The county planning commission, with the concurrence of the commission, may extend the time limit if it deems that unusual circumstances warrant the granting of the extension. [Eff OCT 27 1986 ] (Auth: HRS §§205-1, 205-3.1) (Imp: HRS §205-6)

§15-15-96 Decision and order by the land use commission. (a) Within forty-five days after receipt of the county planning commission's decision, together with the complete record of the proceeding before the county planning commission, the commission shall act to approve, approve with modification, or deny the petition. The commission may impose additional restrictions as may be necessary or appropriate in granting the approval, including the adherence to representations made by the petitioner.

(b) A denial or modification of the special use permit, as the case may be, or the desired use shall be appealable to the circuit court of the circuit in which the land is situated and shall be made pursuant to the Hawaii rules of civil procedure. [Eff OCT 27 1986 ] (Auth: HRS §205-1) (Imp: HRS §205-6)

### Subchapter 13

§15-15-97 (Reserved)

### Subchapter 14

#### Declaratory Orders

§15-15-98 Who may petition. (a) On petition of an interested person, the commission may issue a declaratory order as to the applicability of any statutory provision or of any rule or order of the commission.

(b) Notwithstanding the other provisions of this subchapter, the commission, on its own motion or upon request but without notice of hearing, may issue a declaratory order to terminate a controversy or to remove uncertainty. [Eff OCT 27 1986 ] (Auth: HRS §205-1, 91-8) (Imp: HRS §§91-2, 91-8)



§15-15-99 Petition for declaratory order; form and contents. The petition shall conform to the requirements of subchapters 5 and 7 and shall contain:

- (1) The name, address, and telephone number of each petitioner;
- (2) The signature of each petitioner;
- (3) A designation of the specific statutory provision, rule, or order in question, together with a statement of the controversy or uncertainty involved;
- (4) A statement of the petitioner's interest in the subject matter, including the reasons for submission of the petition;
- (5) A statement of the petitioner's position or contention; and
- (6) A memorandum of authorities, containing a full discussion of reasons and legal authorities in support of such position or contention. [Eff <sup>OCT 27 1986</sup> ]  
(Auth: HRS §§205-1, 91-8)  
(Imp: HRS §§91-2, 91-8)

§15-15-100 Declaratory orders: commission action. Prior to sixty days after the receipt of a petition for declaratory ruling, the commission shall either deny the petition in writing, stating the reasons for the denial, or issue a declaratory order on the matters contained in the petition, or set the matter for hearing, as provided in section 15-15-103 provided that if the matter is set for hearing, the commission shall render its findings and decision before one hundred twenty days after the close of the hearing. [Eff <sup>OCT 27 1986</sup> ] (Auth: HRS §§205-1, 91-8)  
(Imp: HRS §§91-2, 91-8)

§15-15-101 Declaratory orders: dismissal of petition. The commission, without notice or hearing, may dismiss a petition for declaratory ruling that fails in material respect to comply with the requirements of this subchapter. [Eff <sup>OCT 27 1986</sup> ]  
(Auth: HRS §§205-1, 91-8) (Imp: HRS §§91-2, 91-8)

§15-15-102 Refusal to issue declaratory order. The commission, for good cause, may refuse to issue a declaratory order by giving specific reasons for the

determination. Without limiting the generality of the foregoing, the commission may so refuse where:

- (1) The question is speculative or purely hypothetical and does not involve existing facts, or facts that can be expected to exist in the near future;
- (2) The petitioner's interest is not of the type that would give the petitioner standing to maintain an action if the petitioner were to seek judicial relief;
- (3) The issuance of the declaratory order may affect the interests of the commission in a litigation that is pending or may reasonably be expected to arise; or
- (4) The matter is not within the jurisdiction of the commission. [Eff OCT 27 1986 ]

(Auth: HRS §205-1) (Imp: HRS §§91-2, 91-8)

§15-15-103 Declaratory orders: request for hearing. The commission may, but shall not be required to conduct a hearing on a petition for declaratory ruling. Any petitioner or party in interest who desires a hearing on a petition for a declaratory ruling shall set forth in detail in the request the reasons why the matters alleged in the petition, together with supporting affidavits or other written briefs or memoranda of legal authorities, will not permit the fair and expeditious disposition of the petition, and to the extent that the request for a hearing is dependent upon factual assertion, shall accompany the request by affidavit establishing those facts. In the event a hearing is ordered by the commission, subchapter 7 shall govern the proceeding. [Eff OCT 27 1986 ]

(Auth: HRS §§205-1, 91-8)

(Imp: HRS §§91-2, 91-8)

§15-15-104 Applicability of declaratory order.

An order disposing of a petition shall apply only to the factual situation described in the petition or set forth in the order. [Eff OCT 27 1986 ]

(Auth: HRS §205-1) (Imp: HRS §§91-2, 91-8)

Subchapter 15

Rulemaking Procedures

§15-15-105 Initiation of rulemaking proceedings.

(a) The commission, at any time on its own motion, may initiate proceedings for the adoption, amendment, or repeal of any rule of the commission.

(b) Any interested person may petition the commission for the adoption, amendment, or repeal of any rule of the commission. Petitions for rulemaking filed with the commission shall become matters of public record. [Eff OCT 27 1986] (Auth: HRS §205-10) (Imp: HRS §§205-7, 91-2)

§15-15-106 Rulemaking: form and contents of petition. Petitions for rulemaking shall conform to the requirements of this subchapter and shall contain:

- (1) The name, address, and telephone number of each petitioner;
- (2) The signature of each petitioner;
- (3) A draft or the substance of the proposed rule or amendment or a designation of the provisions the repeal of which is desired;
- (4) A statement of the petitioner's interest in the subject matter; and
- (5) A statement of the reasons in support of the proposed rule, amendment, or repeal.

[Eff OCT 27 1986] (Auth: HRS §205-1)  
(Imp: HRS §91-6)

§15-15-107 Rulemaking: action on petition. (a) Prior to sixty days after the filing of a petition for rulemaking, the commission shall either deny the petition in writing, stating its reasons for its denial or initiate proceedings in accordance with section 91-3, HRS.

(b) Any petition that fails in material respect to comply with the requirements of this subchapter, or that fails to disclose sufficient reasons to justify the institution of public rulemaking proceedings shall not be considered by the commission. The commission shall notify the petitioner in writing of the denial, stating the reasons thereto. Denial of a petition

shall not operate to prevent the commission from acting on its own motion on any matter disclosed in the petition.

(c) If the commission determines that the petition is in order and that it discloses sufficient reasons in support of the proposed rulemaking to justify the institution of rulemaking proceedings, the procedures to be followed shall be as set forth in sections 15-15-108, 15-15-109, 15-15-110 and chapter 92, HRS. [Eff OCT 27 1986 ] (Auth: HRS §205-1) (Imp: HRS §91-6)

§15-15-108 Rulemaking; notice of public hearing.

(a) When, pursuant to a petition therefore or upon its own motion, the commission proposes to adopt, amend, or repeal any rule, the petitioner shall publish or the commission if on a commissioner's motion, shall publish a notice of the proposed rulemaking at least once in a newspaper of general circulation in the State and at least once in a newspaper which is published and issued at least twice a week in that respective county. The notice of hearing shall also be mailed to all persons or agencies who have made timely written requests for advance notice of the commission's rulemaking proceedings at their last recorded address. The notice of hearing shall be published at least twenty days prior to the date set for public hearing. The notice of hearing shall also be filed with the lieutenant governor's office.

(b) A notice of the proposed adoption, amendment, or repeal of a rule shall include:

- (1) A statement of the date, time, and place where the public hearing will be held;
- (2) Reference to the authority under which the adoption, amendment, or repeal of a rule is proposed; and
- (3) A statement of the substance of the proposed rules. [Eff OCT 27 1986 ]  
(Auth: HRS §205-1) (Imp: HRS §91-3)

§15-15-109 Rulemaking; conduct of public hearing.

(a) The chairperson of the commission or, in the chairperson's absence, another member designated by the commission, or by a hearing officer shall conduct the public hearing for the adoption, amendment, or repeal of the rules. The commission shall afford interested persons a reasonable opportunity to offer testimony

with respect to the matter specified in the notice of hearing, in order to obtain a clear and orderly record. The presiding officer shall have authority to administer oaths or affirmations and to take all other actions necessary to the orderly conduct of the hearing.

(b) Each such public hearing shall be held at the time and place set in the notice of hearing but may at that time and place be continued by the presiding officer from day to day or adjourned to a later date or to a different place without notice other than the announcement thereof at the hearing.

(c) At the commencement of the hearing, the presiding officer shall read the notice of hearing and shall outline briefly the procedure to be followed. Testimony shall then be received with respect to the matters specified in the notice of hearing in such order as the presiding officer shall prescribe.

(d) Each witness before proceeding to testify, shall state the witness' name, address, and whom the witness' represents at the hearing, and shall give any information respecting the witness' appearance as the presiding officer may request. The presiding officer shall confine the testimony to the matters for which the hearing has been called. In order to allow persons to have an equal amount of time to testify, or to prevent cumulative unnecessary testimony, the presiding officer may limit the amount of time for testimony per individual or per issue. Every witness may be subject to questioning by the members of the commission or by any other representative of the commission. Questions by other than commission members or staff shall be permitted only at the discretion of the presiding officer.

(e) All interested persons or agencies shall be afforded an opportunity to submit data, views, or arguments orally or in writing that are relevant to the matters specified in the notice of hearing. A person may submit written comments, data, views, or arguments ten days after the close of the scheduled public hearing date. An original and fifteen copies of written comments, recommendations, replies, or exhibits shall be submitted.

(f) Unless otherwise specifically ordered by the commission, testimony given at the public hearing shall not be reported verbatim. [Eff OCT 27 1996]

(Auth: HRS §205-1) (Imp: HRS §§91-2, 91-3)

§15-15-110      Emergency rulemaking.      If the commission finds that an imminent peril to public health or safety requires adoption, amendment, or repeal of a rule upon less than twenty days notice of hearing, and states in writing its reasons for that finding, it may adopt emergency rules pursuant to section 91-3(b), HRS. [Eff OCT 27 1986 ]  
(Auth: HRS §205-1)      (Imp: HRS §§91-3, 91-4)

## Subchapter 16

### Land Use District Boundaries

§15-15-111      Land use district boundaries maps.  
(a) The titles of the land use district boundaries maps for the entire State are listed in the exhibit entitled "Land Use District Boundaries Maps" (9/3/86), and located at the end of this subchapter, which is made a part of this subchapter.  
(b) The official "Land Use District Boundaries Maps" are located in the commission office.  
[Eff OCT 27 1986 ]      (Auth: HRS §205-1)  
(Imp: HRS §205-1)

9/3/86

"LAND USE DISTRICT BOUNDARIES MAPS"

(1) COUNTY OF KAUAI

(A) Island of Niihau:  
Niihau

(B) Island of Kauai:

K-1	Makaha Point
K-2	Kekaha
K-3	Haena
K-4	Waimea Canyon
K-5	Hanapepe
K-6	Hanalei
K-7	Waialeale
K-8	Koloa
K-9	Anahola
K-10	Kapaa
K-11	Lihue

(2) COUNTY OF MAUI

(A) Island of Molokai:

Mo-1	Ilio Point
Mo-2	Molokai Airport
Mo-3	Kaunakakai
Mo-4	Kamalo
Mo-5	Halawa

(B) Island of Lanai:  
Lanai

(C) Island of Kahoolawe:  
Kahoolawe

(D) Island of Maui:

M-1	Honolua
M-2	Lahaina
M-3	Olowalu
M-4	Kahakuloa
M-5	Wailuku
M-6	Maalaea

9/3/86

M-7	Paia
M-8	Puu O Kali
M-9	Makena
M-10	Haiku
M-11	Kilohana
M-12	Lualailua Hills
M-13	Keanae
M-14	Nahiku
M-15	Kaupo
M-16	Hana
M-17	Kipahulu

(3) COUNTY OF HAWAII

(A) Island of Hawaii:

H-1	Makalawena
H-2	Keahole Point
H-3	Mahukona
H-4	Keawanui Bay
H-5	Anaehoomalu
H-6	Kiholo
H-7	Kailua
H-8	Kealakekua
H-9	Honaunau
H-10	Kaulua Point
H-11	Milolii
H-12	Manuka Bay
H-13	Hawi
H-14	Kawaihae
H-15	Puu Hinai
H-16	Puu Anahulu
H-17	Hualalai
H-18	Puu Lehua
H-19	Kaunene
H-20	Puu Pohakuloa
H-21	Papa
H-22	Pohue Bay
H-23-A	Puu Hou
H-23-B	Ka Lae
H-24	Honokane
H-25	Kamuela
H-26	Nohonaohae
H-27	Keamuku
H-28	Naohuelelua
H-29	Puu O Uo
H-30	Sulphur Cone



9/3/86

H-31	Alika Cone
H-32	Puu O Keokeo
H-33	Kahuku Ranch
H-34	Kukuihaele
H-35	Makahalau
H-36	Ahumoa
H-37	Puu Koli
H-38	Kokoolau
H-39	Mauna Loa
H-40	Keaiwa
H-41	Punaluu
H-42	Naalehu
H-43	Honokaa
H-44	Umikoa
H-45	Mauna Kea
H-46	Puu Oo
H-47	Puu Ulaula
H-48	Kipuka Pakekake
H-49	Wood Valley
H-50	Pahala
H-51	Kukaiau
H-52	Keanakolu
H-53	Puu Akala
H-54	Upper Piihonua
H-55	Kulani
H-56	Kilauea Crater
H-57	Kau Desert
H-58	Naliikakani Point
H-59	Papaaloa
H-60	Akaka Falls
H-61	Piihonua
H-62	Puu Makaala
H-63	Volcano
H-64	Makaouphi Crater
H-65	Papaikou
H-66	Hilo
H-67	Mountain View
H-68	Kalalua
H-69	Kalapana
H-70	Keaau Ranch
H-71	Pahoa North
H-72	Pahoa South
H-73	Kapoho

9 /3 /86

(4) CITY AND COUNTY OF HONOLULU

(A) Island of Oahu

O-1	Kaena
O-2	Waianae
O-3	Waimea
O-4	Haleiwa
O-5	Schofield Barracks
O-6	Ewa
O-7	Kahuku
O-8	Hauula
O-9	Waipahu
O-10	Puuloa
O-11	Kahana
O-12	Kaneohe
O-13	Honolulu
O-14	Makapu
O-15	Koko Head

Chapter 15-15, Hawaii Administrative Rules, on the Summary Page dated September 3, 1986 was adopted on September 3, 1986 following a public hearing held on July 14, 15, 16, 17 and 18, 1986, after public notice was given in the Honolulu Star-Bulletin, Hawaii Tribune Herald, Maui News and Garden Island on May 30, 1986 and June 6, 1986.

This chapter shall take effect ten days after filing with the Office of the Lieutenant Governor.

T. P. Tacbian  
Teofilo Phil Tacbian  
Chairperson  
Land Use Commission

Kent M. Keith  
Kent M. Keith, Director  
Department of Planning  
and Economic Development

Dated:

George R. Ariyoshi  
George R. Ariyoshi  
Governor  
State of Hawaii

Dated: 10-16-86

APPROVED AS TO FORM:

Annette Y. W. Chock  
Annette Y. W. Chock  
Deputy Attorney General

REC'D. BY  
10-16-86  
FILED

DEPARTMENT OF PLANNING AND ECONOMIC DEVELOPMENT

AMENDMENT TO CHAPTER 15-15

HAWAII ADMINISTRATIVE RULES

January 27, 1987

SUMMARY

1. A new §15-15-97 is added to Subchapter 13

### Subchapter 13

#### Petitions for Section 359G-4.1, H.R.S., Housing Projects

§15-15-97 Procedure for processing petitions for housing projects under section 359G-4.1, H.R.S. (a) Petitions for housing projects under section 359G-4.1, H.R.S., shall be processed according to the following procedures in this section:

(b) Not less than sixty days prior to the filing of a petition, petitioner shall:

- (1) File an original and fifteen copies of a notice of intent to file a petition with the commission according to a format provided by the commission;
- (2) Publish the notice of intent at least once in a newspaper of general circulation in the state as well as in a county newspaper in which the subject property is situated. The notice of intent shall include:
  - (A) The name and address of the petitioner and the petitioner's proprietary interest in the subject property;
  - (B) Proposed reclassification;
  - (C) Tax map key;
  - (D) Acreage;
  - (E) Existing land use;
  - (F) Brief description of the proposed development or use;
  - (G) The date that the petitioner shall file its petition with the commission; and
  - (H) Inform the public of the rights of interested persons under section 205-4(e), H.R.S. ;
- (3) Serve copies of the notice of intent to file a petition upon the director of planning and economic development, the planning department of the county within which the subject property is situated, and persons with a property interest in the subject property that is recorded in the county's real property tax records;
- (4) File an original and fifteen copies of an affidavit of mailing the notices of intent to the persons specified in above paragraph (3).
- (5) File an affidavit of publication of the notice of intent to file a petition in compliance with section 15-15-97(b).

(c) The commission may conduct a preapplication meeting with the petitioner and proposed parties to the proceeding for the purpose of determining information requirements, possible issues, proposed stipulations, and other matters which may assist in contributing to a more orderly hearing process.

(d) If the petitioner fails to file the petition on the date stated in its notice of intent, the petitioner shall refile a notice of intent in the manner set forth in this section, unless the refiling is waived by the chairperson or presiding officer pursuant to the standards set forth in section 15-15-34, H.R.S.

(e) The petitioner shall file a petition in conformance with subchapters 5 and 6 except that at the time of filing, the petition shall include:

- (1) A negative declaration or approved environmental impact statement if conservation district lands are involved;
- (2) A proposed decision and order; and
- (3) An affidavit that the petitioner has met with interested community groups to discuss the proposed project.

(f) Petitions which fail to comply with the requirements set forth in subsections 15-15-97(b) and 15-15-97(e) shall be deemed defective and the date of filing of the petition shall be as of the date the defect is cured.

(g) The hearing on the application shall be conducted in accordance with subchapter 7, except that the time requirements for holding a hearing, statement of position, and decision making shall not apply.

(h) The commission shall approve or disapprove the petition not later than forty-five days after the petition is submitted. If after the forty-fifth day a petition is not disapproved, it shall be deemed approved by the commission. [Eff MAR 20 1987 ]  
(Auth: HRS §§205-1 and 359G-4.1) (Imp: HRS §91-2)

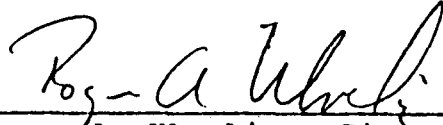
DEPARTMENT OF PLANNING AND ECONOMIC DEVELOPMENT

Amendment to Chapter 15-15, Hawaii Administrative Rules, on the Summary page dated January 27, 1987, were adopted on January 27, 1987, following public hearings held on January 8 and 9, 1987, after public notice was given in the Honolulu Advertiser, the Hawaii Tribune-Herald, the Maui News, and the Garden Island News, on December 5, 1986.

This amendment shall take effect ten (10) days after filing with the Office of the Lieutenant Governor.

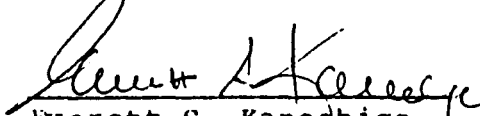


Teofilo Phil Tacbian  
Chairperson  
Land Use Commission



Roger A. Ulveling, Director  
Department of Planning and  
Economic Development

APPROVED AS TO FORM:



Everett S. Kaneshige  
Deputy Attorney General



John Waihee  
Governor  
State of Hawaii

Date: MAR 09 1987

Filed

RECORDED  
BY

MAR 11 1987

# HAWAII REVISED STATUTES

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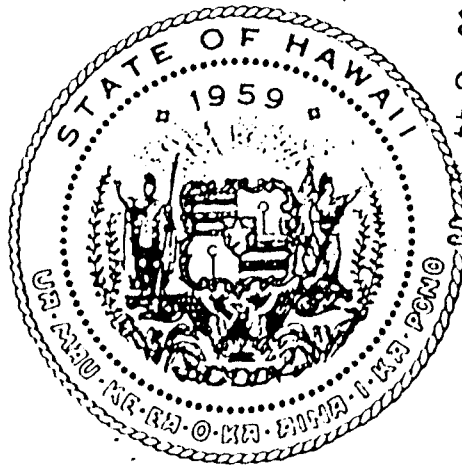
1988 SUPPLEMENT

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VOLUME 4

TITLES 13-15, CHAPTERS 201-279G

FOR USE WITH THE 1985 REPLACEMENT VOLUME



DEC 30 9 44 AM '88

LAND USE COMMISSION  
STATE OF HAWAII

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PUBLISHED BY AUTHORITY

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struction, improvement, and sale of homes thereon; provided that the procedures in Section 5(a)(1), (2), and (3) have been satisfied.

SECTION 7. Compliance with environmental and shoreline protection laws required. The corporation shall not be exempt from compliance with Chapters 343, and 205A, which are intended to maintain and protect the quality of the environment and shorelines.

SECTION 8. Rules. The corporation, which shall adopt rules pursuant to Chapter 91 necessary for the purposes of this Act, shall, in addition to the requirements contained in Chapter 91, give to the legislative body of the county in which the project is to be situated not less than forty-five days written notice of the public hearing, such notice to include the proposed rule to be adopted by the corporation."

## CHAPTER 202 EMPLOYMENT AND HUMAN RESOURCES

### SECTION

#### 202-2 DUTIES OF COMMISSION

§202-2 Duties of commission. The advisory commission on employment and human resources shall:

\*\*\*

- (6) Submit employment reports with recommendations to the governor and the legislature at least once a year;

\*\*\*

- (8) Prepare and submit to the governor plans and updates as appropriate in conjunction with the Hawaii state plan. [am L 1988, c 38, §1]

### Revision Note

Only the paragraphs amended are compiled in this Supplement

## CHAPTER 203 TOURISM DEVELOPMENT

### PART I. GENERALLY

#### SECTION

##### 203-1 DUTIES AND CONDITIONS

##### 203-2 TERMS AND CONDITIONS OF CONTRACT

##### 203-3 COUNTY ADVISORY COMMITTEES

### [PART I. GENERALLY]

§§203-1 to 3 AMENDED. "Department of planning and economic development" changed to "department of business and economic development". L 1987, c 336, §7.

## CHAPTER 205 LAND USE COMMISSION

### PART I. GENERALLY

#### SECTION

##### 205-1 ESTABLISHMENT OF THE COMMISSION

##### 205-2 DISTRICTING AND CLASSIFICATION OF LANDS

##### 205-3.1 AMENDMENTS TO DISTRICT BOUNDARIES

##### 205-4 AMENDMENTS TO DISTRICT BOUNDARIES INVOLVING LAND AREAS GREATER THAN FIFTEEN ACRES

##### 205-5.1 GEOTHERMAL RESOURCE SUBZONES

##### 205-5.2 DESIGNATION OF AREAS AS GEOTHERMAL RESOURCE SUBZONES

##### 205-10 PERIODIC REVIEW OF DISTRICTS

### PART II. SHORELINE SETBACKS

##### 205-31 TO 37 REPEALED

### [PART I. GENERALLY]

§205-1 AMENDED. "Department of planning and economic development" changed to "department of business and economic development". L 1987, c 336, §7.

§205-2 Districting and classification of lands. There shall be four major land use districts in which all lands in the State shall be placed: urban, rural, agricultural, and conservation. The land use commission shall group contiguous land areas suitable for inclusion in one of these four major districts. The commission shall set standards for determining the boundaries of each district, provided that:

- (1) In the establishment of boundaries of urban districts those lands that are now in urban use and a sufficient reserve area for foreseeable urban growth shall be included;
- (2) In the establishment of boundaries for rural districts, areas of land composed primarily of small farms mixed with very low density residential lots, which may be shown by a minimum density of not more than one house per one-half acre and a minimum lot size of not less than one-half acre shall be included, except as herein provided;
- (3) In the establishment of the boundaries of agricultural districts the greatest possible protection shall be given to those lands with a high capacity for intensive cultivation; and
- (4) In the establishment of the boundaries of conservation districts, the "forest and water reserve zones" provided in section 183-41 are renamed "conservation districts" and, effective as of July 11, 1961, the boundaries of the forest and water reserve zones theretofore established pursuant to section 183-41, shall constitute the boundaries of the conservation districts; provided that thereafter the power to determine the boundaries of the conservation districts shall be in the commission.

In establishing the boundaries of the districts in each county, the commission shall give consideration to the master plan or general plan of the county.

Urban districts shall include activities or uses as provided by ordinances or regulations of the county within which the urban district is situated.

Rural districts shall include activities or uses as characterized by low density residential lots of not more than one dwelling house per one-half acre in areas where "city-like" concentration of people, structures, streets, and urban level of services are absent, and where small farms are intermixed with low density residential lots except that within a subdivision, as defined in section 484-1, the commission for good cause may allow one lot of less than one-half acre, but not less than 18,500 square feet, or an equivalent residential density, within a rural subdivision and permit the construction of one dwelling on such lot, provided that all other dwellings in the subdivision shall have a minimum lot size of one-half acre or 21,780 square feet. Such petition for variance may be processed under the special

permit procedure. These districts may include contiguous areas which are not suited to low density residential lots or small farms by reason of topography, soils, and other related characteristics.

Agricultural districts shall include activities or uses as characterized by the cultivation of crops, orchards, forage, and forestry; farming activities or uses related to animal husbandry, aquaculture, game and fish propagation; aquaculture, which means the production of aquatic plant and animal life for food and fiber within ponds and other bodies of water; wind generated energy production for public, private and commercial use; services and uses accessory to the above activities including but not limited to living quarters or dwellings, mills, storage facilities, processing facilities, and roadside stands for the sale of products grown on the premises; wind machines and wind farms; agricultural parks; and open area recreational facilities, including golf courses and golf driving ranges, provided that they are not located within agricultural district lands with soil classified by the land study bureau's detailed land classification as overall (master) productivity rating class A or B.

These districts may include areas which are not used for, or which are not suited to, agricultural and ancillary activities by reason of topography, soils, and other related characteristics.

Conservation districts shall include areas necessary for protecting watersheds and water sources; preserving scenic and historic areas; providing park lands, wilderness, and beach reserves; conserving indigenous or endemic plants, fish, and wildlife, including those which are threatened or endangered; preventing floods and soil erosion, forestry; open space areas whose existing openness, natural condition, or present state of use, if retained, would enhance the present or potential value of abutting or surrounding communities, or would maintain or enhance the conservation of natural or scenic resources; areas of value for recreational purposes; other related activities; and other permitted uses not detrimental to a multiple use conservation concept. [L 1963, c 205, pt of §2; Supp. §98H-2; HRS §205-2; am L 1969, c 182, §5; am L 1975, c 193, §3; am L 1977, c 140, §1 and c 163, §1; am L 1980, c 24, §2; am L 1985, c 298, §2; am L 1987, c 82, §3]

§205-3.1 AMENDED. "Department of planning and economic development" changed to "department of business and economic development". L 1987, c 336, §7.

§205-4 Amendments to district boundaries involving land areas greater than fifteen acres. (a) Any department or agency of the State, any department or agency of the county in which the land is situated, or any person with a property interest in the land sought to be reclassified, may petition the land use commission for a change in the boundary of a district. This section is applicable to all petitions for changes in district boundaries of lands within conservation districts and all petitions for changes in district boundaries involving lands greater than fifteen acres in the agricultural, rural, and urban districts, except as provided in section 354G-4.1. The land use commission shall adopt rules pursuant to chapter 91 to implement section 354G-4.1.

(c) Any other provisions of law to the contrary notwithstanding, agencies and persons may intervene in the proceedings in accordance with this subsection.

(1) The petitioner, the office of state planning, and the county planning department shall in every case appear as parties and make recommendations relative to the proposed boundary change.

... [am L 1986, c 93, §1; am L 1987, c 336, §7; am L 1988, c 352, §2]

#### Revision Note

Only the subsections amended are compiled in this Supplement. (354G-4.1), referred to in text, is repealed.

#### Cross References

Boundary change approvals for housing finance development corporation projects, see note at end of chapter 201E.

§205-5.1 Geothermal resource subzones. (a) Geothermal resource subzones may be designated within the urban, rural, agricultural, and conservation land use districts established under section 205-2. Only those areas designated as geothermal resource subzones may be utilized for geothermal development activities in addition to those uses permitted in each land use district under this chapter. Geothermal development activities may be permitted within urban, rural, agricultural, and conservation land use districts in accordance with this chapter. "Geothermal development activities" means the exploration, development, or production of electrical energy from geothermal resources and direct use applications of geothermal resources; provided that within the urban, rural, and agricultural land use districts, direct use applications of geothermal resources are permitted both within and outside of areas designated as geothermal resource subzones pursuant to section 205-5.2 if such direct use applications are in conformance with all other applicable state and county land use regulations and are in conformance with this chapter.

(b) The board of land and natural resources shall have the responsibility for designating areas as geothermal resource subzones as provided under section 205-5.2, except that the total area within an agricultural district which is the subject of a geothermal mining lease approved by the board of land and natural resources, any part or all of which area is the subject of a special use permit issued by the county for geothermal development activities, on or before May 25, 1984, is designated as a geothermal resource subzone for the duration of the lease. The designation of geothermal resource subzones shall be governed exclusively by this section and section 205-5.2, except as provided therein. The board shall adopt, amend, or repeal rules related to its authority to designate and regulate the use of geothermal resource subzones in the manner provided under chapter 91.

The authority of the board to designate geothermal resource subzones shall be an exception to those provisions of this chapter and of section 46-4 authorizing the land use commission and the counties to establish and modify land use districts and to regulate uses therein. The provisions of this section shall not abrogate nor supersede the provisions of chapters 182 and 183.

(c) The use of an area for geothermal development activities within a geothermal resource subzone shall be governed by the board within the conservation district and, except as herein provided, by state and county statutes, ordinances, and rules not inconsistent herewith within agricultural, rural, and urban districts, except that no land use commission approval or special use permit procedures under section 205-6 shall be required for the use of such subzones. In the absence of provisions in the county general plan and zoning ordinances specifically relating to the use and location of geothermal development activities in an agricultural, rural, or urban district, the appropriate county authority may issue a geothermal resource permit to allow geothermal development activities. "Appropriate county

authority" means the county planning commission unless some other agency or body is designated by ordinance of the county council. Such uses as are permitted by county general plan and zoning ordinances, by the appropriate county authority, shall be deemed to be reasonable and to promote the effectiveness and objectives of this chapter. Chapters 177, 178, 182, 183, 205A, 226, 342, and 343 shall apply as appropriate. If provisions in the county general plan and zoning ordinances specifically relate to the use and location of geothermal development activities in an agricultural, rural, or urban district, the provisions shall require the appropriate county authority to conduct a public hearing on any application for a geothermal resource permit to determine whether the use is in conformity with the criteria specified in subsection (e) for granting geothermal resource permits; provided that within the urban, rural, and agricultural land use districts, direct use applications of geothermal resources are permitted without any application for a geothermal resource permit both within and outside of areas designated as geothermal resource subzones pursuant to section 205-5.2 if such direct use applications are in conformance with all other applicable state and county land use regulations and are in conformance with this chapter.

(d) If geothermal development activities are proposed within a conservation district, with an application with all required data, the board of land and natural resources shall conduct a public hearing and, upon appropriate request for mediation from any party who submitted comment at the public hearing, the board shall appoint a mediator within five days. The board shall require the parties to participate in mediation. The mediator shall not be a member of the board or its staff. The mediation period shall not extend beyond thirty days after the date mediation started, except by order of the board. Mediation shall be confined to the issues raised at the public hearing by the party requesting mediation. The mediator will submit a written recommendation to the board, based upon any mediation agreement reached between the parties for consideration by the board in its final decision. If there is no mediation agreement, the board may have a second public hearing to receive additional comment related to the mediation issues. Within ten days after the second public hearing, the board may receive additional written comment on the issues raised at the second public hearing from any party.

The board shall consider the comments raised at the second hearing before rendering its final decision. The board shall then determine whether, pursuant to board rules, a conservation district use permit shall be granted to authorize the geothermal development activities described in the application. The board shall grant a conservation district use permit if it finds that the applicant has demonstrated that:

- (1) The desired uses would not have unreasonable adverse health, environmental, or socio-economic effects on residents or surrounding property; and
- (2) The desired uses would not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, and police and fire protection; or
- (3) There are reasonable measures available to mitigate the unreasonable adverse effects or burdens referred to above.

A decision shall be made by the board within six months of the date a complete application was filed; provided that the time limit may be extended by agreement between the applicant and the board.

(e) If geothermal development activities are proposed within agricultural, rural, or urban districts and such proposed activities are not permitted uses pursuant to county general plan and zoning ordinances, then after receipt of a properly filed

and completed application, including all required supporting data, the appropriate county authority shall conduct a public hearing. Upon appropriate request for mediation from any party who submitted comment at the public hearing, the county authority shall appoint a mediator within five days. The county authority shall require the parties to participate in mediation. The mediator shall not be an employee of any county agency or its staff. The mediation period shall not extend beyond thirty days after mediation started, except by order of the county authority. Mediation shall be confined to the issues raised at the public hearing by the party requesting mediation. The mediator will submit a written recommendation to the county authority, based upon any mediation agreement reached between the parties for consideration by the county authority in its final decision. If there is no mediation agreement, the county authority may have a second public hearing to receive additional comment related to the mediation issues. Within ten days after the second public hearing, the county authority may receive additional written comment on the issues raised at the second public hearing from any party.

The county authority shall consider the comments raised at the second hearing before rendering its final decision. The county authority shall then determine whether a geothermal resource permit shall be granted to authorize the geothermal development activities described in the application. The appropriate county authority shall grant a geothermal resource permit if it finds that applicant has demonstrated that:

- (1) The desired uses would not have unreasonable adverse health, environmental, or socio-economic effects on residents or surrounding property;
- (2) The desired uses would not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, and police and fire protection; and
- (3) That there are reasonable measures available to mitigate the unreasonable adverse effects or burdens referred to above.

Unless there is a mutual agreement to extend, a decision shall be made on the application by the appropriate county authority within six months of the date a complete application was filed; provided that the time limit may be extended by agreement between the applicant and the appropriate county authority.

(f) Requests for mediation shall be received by the board or county authority within five days after the close of the initial public hearing. Within five days thereafter, the board or county authority shall appoint a mediator. Any person submitting an appropriate request for mediation shall be notified by the board or county authority of the date, time, and place of the mediation conference by depositing such notice in the mail to the return address stated on the request for mediation. The notice shall be mailed no later than ten days before the start of the mediation conference. The conference shall be held on the island where the public hearing is held.

(g) Any decision made by an appropriate county authority or the board pursuant to a public hearing or hearings under this section may be appealed directly on the record to the supreme court for final decision and shall not be subject to a contested case hearing. Sections 91-14(b) and (g) shall govern the appeal, notwithstanding the lack of a contested case hearing on the matter. The appropriate county authority or the board shall provide a court reporter to produce a transcript of the proceedings at all public hearings under this section for purposes of an appeal.

(h) For the purposes of an appeal from a decision from a public hearing, the record shall include:

- (1) The application for the permit and all accompanying supporting docu-

ments, including but not limited to: reports, studies, affidavits, statements, and exhibits.

- (2) Staff recommendations submitted to the members of the agency in consideration of the application.
- (3) Oral and written public testimony received at the public hearings.
- (4) Written transcripts of the proceedings at the public hearings.
- (5) The written recommendation received by the agency from the mediator with any mediation agreement.
- (6) A statement of relevant matters noticed by the agency members at the public hearings.
- (7) The written decision of the agency issued in connection with the application and public hearings.
- (8) Other documents required by the board or county authority. [L 1983, c 296, pt of §3; am L 1984, c 151, §2; am L 1985, c 226, §1; am L 1986, c 167, §1, c 187, §1 and c 290, §1; am L 1987, c 372, §§2, 3 and c 378, §1]

Note

Chapters 177 and 178, referred to in text, are repealed effective July 1, 1989.

§205-5.2 Designation of areas as geothermal resource subzones. \*\*\*

(d) After the board has completed a county-by-county assessment of all areas with geothermal potential or after any subsequent update or review, the board shall compare all areas showing geothermal potential within each county, and shall propose areas for potential designation as geothermal resource subzones based upon a preliminary finding that the areas are those sites which best demonstrate an acceptable balance between the factors set forth in subsection (b). Once such a proposal is made, the board shall conduct public hearings pursuant to this subsection, notwithstanding any contrary provision related to public hearing procedures. Contested case procedures are not applicable to these hearings.

- (1) Hearings shall be held at locations which are in close proximity to those areas proposed for designation. A public notice of hearing, including a description of the proposed areas, an invitation for public comment, and a statement of the date, time, and place where persons may be heard shall be published and mailed no less than twenty days before the hearing. The notice shall be published on three separate days in a newspaper of general circulation statewide and in the county in which the hearing is to be held. Copies of the notice shall be mailed to the department of business and economic development, to the planning commission and planning department of the county in which the proposed areas are located, and to all owners of record of real estate within, and within one thousand feet of, the area being proposed for designation as a geothermal resource subzone. The notification shall be mailed to the owners and addresses as shown on the current real property tax rolls at the county real property tax office. Upon such action, the requirement for notification of owners of land is completed. For the purposes of this subsection, notice to one coowner shall be sufficient notice to all coowners.
- (2) The hearing shall be held before the board, and the authority to conduct hearings shall not be delegated to any agent or representative of the board. All persons and agencies shall be afforded the opportunity to

submit data, views, and arguments either orally or in writing. The department of business and economic development and the county planning department shall be permitted to appear at every hearing and make recommendations concerning each proposal by the board.

- (3) At the close of the hearing, the board may designate areas as geothermal resource subzones or announce the date on which it will render its decision. The board may designate areas as geothermal resource subzones only upon finding that the areas are those sites which best demonstrate an acceptable balance between the factors set forth in subsection (b). Upon request, the board shall issue a concise statement of its findings and the principal reasons for its decision to designate a particular area.
- (e) The designation of any geothermal resource subzone may be withdrawn by the board of land and natural resources after proceedings conducted pursuant to chapter 91. The board shall withdraw a designation only upon finding by a preponderance of the evidence that the area is no longer suited for designation; provided that the designation shall not be withdrawn for areas in which active exploration, development, production or distribution of electrical energy from geothermal sources or direct use applications of geothermal resources are taking place.
- (f) This Act shall not apply to any active exploration, development or production of electrical energy from geothermal sources or direct use applications of geothermal resources taking place on June 14, 1983, provided that any expansion of such activities shall be carried out in compliance with its provisions. [am L 1986, c 124, §1, c 187, §2 and c 290, §2; am L 1987, c 336, §7 and c 378, §2]

Revision Note

Only the subsections amended are compiled in this Supplement.

Case Notes

Statute sufficiently clear to comport with due process. 69 H. (Nos. 11126, 11334), 740 P.2d 28

§205-18 Periodic review of districts. The office of state planning shall undertake a review of the classification and districting of all lands in the State, within five years from December 31, 1985, and every fifth year thereafter. The office, in its five-year boundary review, shall focus its efforts on reviewing the Hawaii state plan, county general plans, and county development and community plans. Upon completion of the five-year boundary review, the office shall submit a report of the findings to the commission. The office may initiate state land use boundary amendments which it deems appropriate to conform to these plans. The office may seek assistance of appropriate state and county agencies and may employ consultants and undertake studies in making this review. [L 1985, c 230, §2; am L 1987, c 336, §7; am L 1988, c 352, §3]

PART II. SHORELINE SETBACKS

§§205-31 to 37 REPEALED. L 1986, c 258, §3.

Cross References

Current provisions. see §§205A-41 to 49.

CHAPTER 205A  
COASTAL ZONE MANAGEMENT

PART I. COASTAL ZONE MANAGEMENT

SECTION

205A-1 DEFINITIONS

PART III. SHORELINE SETBACKS

205A-41 DEFINITIONS

205A-42 DETERMINATION OF THE SHORELINE

205A-43 ESTABLISHMENT OF SHORELINE SETBACKS AND DUTIES AND POWERS OF THE DEPARTMENT

205A-44 PROHIBITIONS

205A-45 SHORELINE SETBACK LINES ESTABLISHED BY COUNTY

205A-46 FUNCTIONS OF DEPARTMENT

205A-47 EXEMPTIONS

205A-48 CONFLICT OF OTHER LAWS

205A-49 ADOPTION OF RULES

Cross References

Housing finance development corporation compliance with environmental and shoreline protection laws, see note at end of chapter 201E.

PART I. COASTAL ZONE MANAGEMENT

§205A-1 Definitions. As used in this chapter, unless the context otherwise requires:

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"Lead agency" means the office of state planning;

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"Shoreline" means the upper reaches of the wash of the waves, other than storm and tidal waves, at high tide during the season of the year in which the highest wash of the waves occurs, usually evidenced by the edge of vegetation growth, or the upper limit of debris left by the wash of the waves. [am L 1986, c 258, §2; am L 1987, c 336, §7; am L 1988, c 352, §4]

Revision Note

Only the definitions amended are compiled in this Supplement.

§205A-6 Cause of action.

Case Notes

Judicial intervention under this section should not precede resolution of issues by administrative agency. 69 H. (No. 11228), 734 P.2d 161.

PART II. SPECIAL MANAGEMENT AREAS

§205A-26 Special management area guidelines.

Case Notes

Grant of permit overturned because findings required by paragraph (2) not made. 68 H. (Nos. 10078, 10079).

Not violated where requisite findings were contained in committee report recommending approval of development. 6 H. App. (No. 11313), 735 P.2d 950.

PART III. SHORELINE SETBACKS

§205A-41 Definitions. As used in this part, unless the context otherwise requires:

"Authority" means the authority as defined in part II.

"Department" means the planning department of each county.

"Shoreline area" means all of the land area between the shoreline and the shoreline setback line.

"Shoreline setback line" means that line established in this part or by the county running inland from and parallel to the shoreline at a horizontal plane. [L 1986, c 258, pt of §1]

§205A-42 Determination of the shoreline. The board of land and natural resources shall adopt rules pursuant to chapter 91 prescribing procedures for determining a shoreline and appeals of shoreline determinations; provided that no determination of a shoreline shall be valid for a period longer than twelve months, except where the shoreline is fixed by man-made structures which have been approved by appropriate government agencies and for which engineering drawings exist to locate the interface between the shoreline and the structure. [L 1986, c 258, pt of §1]

§205A-43 Establishment of shoreline setbacks and duties and powers of the department. Setbacks along shorelines are established of not less than twenty feet and not more than forty feet inland from the shoreline. The department shall adopt rules within a period of one year after June 22, 1970, pursuant to chapter 91, and shall enforce the shoreline setbacks and rules pertaining thereto. [L 1986, c 258, pt of §1]

§205A-44 Prohibitions. (a) The mining or taking of sand, dead coral or coral rubble, rocks, soil, or other beach or marine deposits from the shoreline area is prohibited with the following exceptions:

- (1) The taking from the shoreline area of such materials, not in excess of one gallon per person per day, for reasonable, personal, noncommercial use, provided that stricter provisions may be established by the counties;
- (2) Where the mining or taking of sand by the State or county is for the replenishment of sand in the shoreline area, provided that for the purpose of this paragraph an environmental assessment for the proposed project shall be prepared pursuant to chapter 343, a finding shall be made by the proposing state or county agency that the proposed project is in the public interest and will not have any adverse significant social, economic, or environmental impact, and both a public informational meeting and public hearing shall be held by the proposing state or county agency in the affected community. The public hearing shall be preceded by public notice of the proposed project not less than thirty days before the hearing and published on three separate days in a newspaper of general circulation in the State or county affected by the proposed project. The proposing state or county agency shall also notify in writing the owners or lessees of adjoining, overlapping, or affected property of the proposed project;
- (3) The clearing of sand from existing drainage pipes and canals and from the mouths of streams; or
- (4) The cleaning of shoreline area for State or county maintenance purposes, including the purposes under section 46-11.5 and section 46-12; provided

## PLANNING AND ECONOMIC DEVELOPMENT

that the sand removed shall be placed on adjacent areas unless such placement would result in significant turbidity.

(b) Except as otherwise provided in this part no structure or any portion thereof, including but not limited to seawalls, groins, and revetments, shall be permitted within the shoreline area; provided that any lawful nonconforming structure existing on June 22, 1970, shall be permitted; provided further that any structure which is necessary for safety reasons or to protect the property from erosion or wave damages shall be permitted. A structure not conforming to this section but for which a building permit application has been filed on or before June 22, 1970, shall also be permitted as a nonconforming structure, subject to the ordinances and regulations of the particular county.

(c) Any nonconforming structure, including but not limited to residential dwellings, agricultural structures, seawalls, groins, and revetments may be replaced or reconstructed within the shoreline area; provided that no nonconforming structure shall be substantially enlarged or changed to another nonconforming use within the shoreline area. If the use of any nonconforming structure is discontinued or held in abeyance for a period of one year, the further continuation of such use shall be prohibited. [L 1986, c 258, pt of §1; am L 1988, c 375, §1]

### Cross References

Mining or taking of sand, etc., see §171-58.5.

**§205A-45 Shoreline setback lines established by county.** The several counties through ordinances may require that shoreline setback lines be established at a distance greater than that established in this part. [L 1986, c 258, pt of §1]

**§205A-46 Functions of department.** (a) The department shall administer the provisions of this part. It shall review the plans of all applicants who propose any structure, activity, or facility which otherwise would be prohibited by this part. The department may require that the plans be supplemented by accurately mapped data showing natural conditions and topography relating to all existing and proposed structures, buildings, and facilities.

The department may also require reasonable changes in the submitted plans in order to obtain optimum compliance practicable with this part.

(b) After reviewing the plans, the department shall transmit the plans with its recommendations to the authority. The authority shall grant a variance for such structure, activity, or facility if, after a hearing pursuant to chapter 91, it finds in writing, based on the record presented either: (1) that such structure, activity, or facility is in the public interest; or (2) that hardship will be caused to the applicant if the proposed structure, activity, or facility is not allowed on that portion of the land within the shoreline area. Any variance granted to the maximum extent practicable shall be subject to such conditions as will cause the structure, activity, or facility to result in a minimum interference with natural shoreline processes and as will provide for safe public shoreline access. The authority shall render written approval or disapproval within forty-five days after the hearing on the applicant's plans, unless such period is extended by written agreement between the authority and the applicant. [L 1986, c 258, pt of §1]

### Note

For variances and permits granted before May 29, 1986, see L 1986, c 258, §5.

## COMMUNITY DEVELOPMENT AUTHORITY

206E-3

**§205A-47 Exemptions.** Tunnels, canals, basins, and ditches, together with associated structures used by public utilities as the term is defined in section 269-1, wharves, docks, piers, and other harbor and waterfront improvements and any other maritime facility and water sport recreational facilities may be permitted within the shoreline area; provided that the plans are submitted for review and are approved by the authority after a public hearing has been held and that the appropriate state body has found that the proposed structures will result only in a minimum interference with natural shoreline processes; provided further that any such structure constructed by a governmental body shall be exempt from the provisions of this part except as to the requirement that two public hearings shall be held by the governmental body charged with such construction, once when the project is first conceived and again when the project is substantially designed and planned, but prior to the letting of the contract. Repair, strengthening, reinforcement, and maintenance of fishponds, and improvements for aquaculture farms shall be exempt from this part, upon issuance of a permit or waiver of the requirements by the board of land and natural resources. [L 1986, c 258, pt of §1]

**§205A-48 Conflict of other laws.** In case of a conflict between the requirements of any other state law or county ordinance regarding shoreline setback lines, the more restrictive requirements shall apply in furthering the purposes of this part. Nothing contained in this part shall be construed to diminish the jurisdiction of the state department of transportation over wharves, airports, docks, piers, small boat, or other harbors, and any other maritime or water sports recreational facilities to be constructed on state land by the State; provided that such plans are submitted for the review and information of the officer of the respective agency charged with the administration of the county zoning laws, and found not to conflict with any county ordinances, zoning laws, and building code. [L 1986, c 258, pt of §1]

**§205A-49 Adoption of rules.** Each agency charged with carrying out this part shall adopt rules under chapter 91, as necessary, to implement or comply with this part by June 30, 1987. [L 1986, c 258, pt of §1]

## CHAPTER 206E HAWAII COMMUNITY DEVELOPMENT AUTHORITY

### PART I. GENERAL PROVISIONS

#### SECTION

- 206E-3 HAWAII COMMUNITY DEVELOPMENT AUTHORITY; ESTABLISHED
- 206E-5 DESIGNATION OF COMMUNITY DEVELOPMENT DISTRICTS; COMMUNITY DEVELOPMENT PLANS
- 206E-6 DISTRICT-WIDE IMPROVEMENT PROGRAM
- 206E-15 RESIDENTIAL PROJECTS; COOPERATIVE AGREEMENTS

### PART II. KAKAOKO COMMUNITY DEVELOPMENT DISTRICT

- 206E-32 DISTRICT; ESTABLISHED; BOUNDARIES

### PART IV. REVENUE BONDS FOR PUBLIC FACILITY PROJECTS

- 206E-153 REVENUE BONDS; AUTHORIZATION

### PART I. GENERAL PROVISIONS

**§206E-3 Hawaii community development authority; established.** (a) There is established the Hawaii community development authority, which shall be